

HOUSE BILL REPORT

HB 1002

As Amended by the Senate

Title: An act relating to increasing the penalty for hazing.

Brief Description: Increasing the penalty for hazing.

Sponsors: Representatives Leavitt, Thai, Ryu, Berry, Reed, Lekanoff, Senn, Doglio, Reeves, Bronoske, Kloba and Riccelli.

Brief History:

Committee Activity:

Community Safety, Justice, & Reentry: 1/16/23, 1/26/23 [DP].

Floor Activity:

Passed House: 3/1/23, 96-0.

Senate Amended.

Passed Senate: 4/5/23, 48-0.

Brief Summary of Bill

- Reclassifies the crime of Hazing from a misdemeanor to a gross misdemeanor, and, in cases involving substantial bodily harm, to a class C felony.
- Adds felony Hazing to the statutory lists of crimes against persons and crimes of harassment.

HOUSE COMMITTEE ON COMMUNITY SAFETY, JUSTICE, & REENTRY

Majority Report: Do pass. Signed by 8 members: Representatives Goodman, Chair; Mosbrucker, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Davis, Farivar, Fosse, Graham and Ramos.

Staff: Michelle Rusk (786-7153).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background:

I. Hazing.

Hazing is defined as any act committed as part of a person's recruitment, initiation, pledging, admission into, or affiliation with a student organization, athletic team, or living group, or any pastime or amusement engaged in with respect to such an organization, athletic team, or living group that causes, or is likely to cause, bodily danger or physical harm, or serious psychological or emotional harm, to any student or other person attending a public or private institution of higher education or other postsecondary educational institution in this state, including causing, directing, coercing, or forcing a person to consume any food, liquid, alcohol, drug, or other substance which subjects the person to risk of such harm, regardless of the person's willingness to participate. "Hazing" does not include customary athletic events or other similar contests or competitions.

It is a misdemeanor for any student or other person in attendance at any public or private institution of higher education to engage in or conspire to engage in hazing. Additionally, any organization, association, or student living group that knowingly permits hazing is strictly liable for any resulting harm to persons or property. If the entity is a corporation, the individual directors of the corporation may be held individually liable for damages.

Any person who participates in hazing forfeits any entitlement to state funded grants, scholarships, or awards for a period of time determined by the higher education institution. Any organization, association, or student living group that knowingly permits hazing must be deprived of any official recognition or approval granted by a public institution of higher education.

II. Sentencing.

Crimes are classified as misdemeanors, gross misdemeanors, or felonies. The classification of a crime generally determines the maximum term of confinement and/or fine for an offense. For each classification, the maximum terms of confinement and maximum fines are as follows:

Classification	Maximum Confinement	Maximum Fine
Misdemeanor	90 days	\$1,000
Gross Misdemeanor	364 days	\$5,000
Class C Felony	5 years	\$10,000
Class B Felony	10 years	\$20,000
Class A Felony	Life	\$50,000

When a person is convicted of a felony, the Sentencing Reform Act (SRA) applies and determines a sentence range within the statutory maximum. Sentence ranges are determined by reference to a sentencing grid that provides a standard range of months for

the sentence based on both the severity, or "seriousness level," of the offense and the convicted person's "offender score," which is based on the offender's criminal history. Seriousness levels range from I to XVI. Offender scores can range from zero to nine or more points. A higher seriousness level or offender score results in a longer sentence.

III. Crimes Against Persons.

Statute designates a subset of crimes as crimes against persons. Crimes against persons are subject to certain guidelines and restrictions. For example, the guidelines for when prosecution should be pursued suggest that charges for a crime against persons should be brought whenever sufficient admissible evidence exists, that, when considered with the most plausible, reasonably foreseeable defense, would justify conviction by a reasonable and objective factfinder. Heightened victim notification standards also apply when the crime at issue is a crime against persons.

Additionally, upon conviction of a crime against persons, the court must order one year of community custody if the person is receiving a prison sentence, and may order community custody for up to one year if the person is receiving a jail sentence. Community custody is a portion of a criminal sentence that follows the term of confinement and is served in the community subject to controls placed on a person's movement and activities by the court and the Department of Corrections (DOC). The DOC is required to supervise any person ordered to community custody who is assessed as a high risk for reoffense.

IV. Crimes of Harassment.

Certain crimes are included in a statutory list of crimes of harassment, which is used for a variety of purposes. For example, certain harassment-related gross misdemeanor offenses become class C felonies when the defendant has a prior conviction of a crime of harassment. Additionally, the DOC is required to send written notice to certain persons regarding the parole, release, community custody, work release placement, furlough, or escape of any person convicted of a crime of harassment. Also, when criminal charges are pending or when a person is convicted of a crime of harassment, the court is authorized to enter a no-contact order preventing the accused or convicted person from contacting or interfering with the victim. Violation of such order is a gross misdemeanor.

Summary of Bill:

Hazing is reclassified from a misdemeanor to a gross misdemeanor. Hazing that causes substantial bodily harm is reclassified as a class C felony. "Substantial bodily harm" includes bodily injury that: involves a temporary but substantial disfigurement; causes a temporary but substantial loss or impairment of the function of any body part or organ; or causes a fracture of any body part. Felony Hazing is ranked as a seriousness level III offense, carrying a low-end penalty of one to three months of incarceration.

Felony Hazing is designated as a crime against persons and a crime of harassment. Additionally, if a person in the commission of a Hazing offense commits any other crime,

the person may be punished for the other crime as well as the Hazing offense and prosecuted for each crime separately.

EFFECT OF SENATE AMENDMENT(S):

The Senate striking amendment:

- modifies the offense of hazing, providing that no student may intentionally haze another, rather than conspire to engage in hazing or participate in hazing of another;
- removes the provision allowing a person to be punished and prosecuted separately for any other crime committed during the commission of a hazing offense, as well as the hazing offense; and
- specifies that any student organization, association, or student living group that permits hazing is strictly liable for damages caused, rather than any organization, association or student living group that knowingly permits hazing is strictly liable for harm caused.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Statistics show that 55 percent of college students report to have an experience of hazing, but 95 percent of those respondents do not formally report that experience. Hazing occurs in rural and urban areas, in independent institutions and public ones, and not just in sports, but in many other settings. Persons engaging in hazing aren't always aware of the risks associated, but it's not just substantial bodily harm, it's also psychological trauma. Changing hazing from a misdemeanor to a gross misdemeanor increases the statute of limitations and allows law enforcement to have resources and tools, including reducing chances of missing the statute of limitations while investigating an incident. Increasing the penalty to a class C felony where substantial bodily harm occurs recognizes the inherent dangerousness in all hazing.

Hazing is currently a misdemeanor, which is the equivalent to shoplifting offenses or not paying a parking ticket. Some students engaged in hazing have ended up serving one day of community service and having their cases dismissed, or 19 days in jail. What message are we sending to those who haze when the consequences are so laughable? Parity in laws is important. Laws addressing DUIs provide stiff penalties and similarly, hazing weaponizes alcohol and drugs yet the penalties are unimaginably weak. This bill is a chance for Washington to send a clear message that it has no tolerance for hazing. Jail isn't wished upon anyone, but if there is a mechanism that has more power and might stop some of these

kids from hazing other younger kids, then it is worth supporting, including this bill. Students deserve a safe place to learn, and these new penalties will make a huge difference in upholding public safety. Washington can show it is a strong national leader in anti-hazing Legislation.

(Opposed) This bill is redundant with current laws, the *mens rea* is vague, and it overly punishes and wrongly targets youth who, studies show, are amenable to treatment and a chance to change their behavior. Sending a young person to prison where they will be hazed and harmed will not undo the harms their acts have caused. The bill includes behavior already criminalized as a form of manslaughter or assault. The harm prong is vague; it appears to criminalize unknown behavior, and provides that the mere presence or knowledge of hazing could make a person liable.

Studies show we can rehabilitate our youth. A first round of treatment could be school resource officers or similar, using restorative justice principles. Please consider the harms of making this a felony and making it a strict liability felony.

Persons Testifying: (In support) Representative Mari Leavitt, prime sponsor; Jolayne Houtz; Hector Martinez; Kathleen Wiant; Charlie Gartenberg; Robert Embrey; Denis Tracy, Whitman County Prosecuting Attorney; and Gary Jenkins.

(Opposed) Jason Schwarz, Washington Defender Association.

Persons Signed In To Testify But Not Testifying: Yesica Velez; Beatriz Eugenia Ruiz Castillo; Jorge Eduardo González Ruiz; Enrique Martinez; José Roberto Patlán Islas; Christy Bear; María Martinez; Sid Thiagarajan; Diego Moroni Martinez Rivera; Ivan Olin; Anusha Silla; Gerardo Adrián Martínez Loza; Paz Mercader; and Antonio Ginatta, Columbia Legal Services.