

SENATE BILL REPORT

HB 1002

As Reported by Senate Committee On:
Law & Justice, March 22, 2023

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

Committee Activity: Law & Justice: 3/13/23, 3/22/23 [DPA].

Brief Summary of Amended 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.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended.

Signed by Senators Dhingra, Chair; Trudeau, Vice Chair; Padden, Ranking Member; Kuderer, McCune, Pedersen, Salomon, Torres, Valdez, Wagoner and Wilson, L..

Staff: Ryan Giannini (786-7285)

Background: 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

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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. 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.

Conspiracy. A person is guilty of criminal conspiracy if the person agrees with another person or persons to commit a crime, and any such persons takes a substantial step in pursuance of the agreement. The criminal charge for criminal conspiracy depends on the classification of the crime being conspired. Criminal conspiracy is generally charged as one class lower than the crime being conspired. For crimes classified as gross misdemeanors or misdemeanors, criminal conspiracy to commit such crimes are charged as a misdemeanor.

Sentencing. Crimes are classified as misdemeanors, gross misdemeanors, or felonies. The classification of a crime generally determines the maximum term of confinement 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 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.

Crimes Against Persons. Statute designates a subset of crimes as crimes against persons. Crimes against persons are subject to certain guidelines. Heightened victim notification standards also apply when the crime is a crime against persons. 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 up to one year if the person is receiving a jail sentence.

Crimes of Harassment. Certain crimes are included in a statutory list of crimes of harassment, which has various effects. For example, harassment-related gross misdemeanor offenses against the same victim, members of the victim's household, or any person named in a no-contact or no-harassment order become class C felonies when the defendant has a prior conviction of a crime of harassment.

The Department of Corrections 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.

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 the order is a gross misdemeanor.

Summary of Amended 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.

The crime of conspiracy to engage in hazing is removed and aligned with other conspiracy offenses.

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.

Any student organization, association, or student living group that permits hazing is strictly liable for damages caused to persons or property resulting from hazing.

EFFECT OF LAW & JUSTICE COMMITTEE AMENDMENT(S):

- Clarifies that a student or other person is guilty of hazing if they intentionally haze another.
- Removes the crime of conspiracy to engage in hazing and aligns the crime with other conspiracy offenses.
- Removes the provision allowing any person to be prosecuted for any other crime committed while in the commission of a hazing offense.
- Clarifies that any student organization, association, or student living group that permits hazing is strictly liable for damages caused to persons or property resulting from hazing.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This bill passed through the House unanimously. Fifty-five percent of students experience some form of hazing, and ninety-five percent of these hazing incidents go unreported. Hazing remains rampant on all types of colleges and can occur outside of fraternities and sororities. Students want this bill because organizations have not learned from recent deaths and hazing remains a requirement to join clubs, fraternities, and sororities. Hazing can cause substantial bodily harm and death, as well as significant psychological trauma that impacts the individual, family, friends, and community members. Part of the solution must be to establish serious criminal penalties. Currently, hazing is only a misdemeanor. Stronger penalties for hazing will put teeth behind current laws, bring accountability to those engaged in hazing, and protect young people from harm and future tragedies. The bill will help prosecutors by extending investigation times and its passage will send a clear message that hazing culture does not have any place in society.

CON: This bill will do nothing for parents that have lost children and will not prevent future hazing. The common thread of comments in support of this bill is that increasing punishment will deter others from committing hazing in the future. Increased incarceration is not a solution to all problems. Many years of research have shown that increasing the severity of punishment and increasing the length of incarceration does not deter crime or reduce recidivism. This is especially true for juveniles and young adults because they have not yet matured, and they usually fail to consider the consequences of their actions. Increasing punishment will not deter risk-taking by juveniles because they never think that bad things will happen. This bill will do nothing to deter future, immature, and dangerous juvenile behavior, and will do nothing to actually help victims of hazing. This bill will continue to perpetuate the myth that all social problems can be solved through incarceration.

OTHER: Generally, there is hope that the Legislature can be thoughtful when it creates new felony crimes, especially ones that can impact large groups of young people. There is concern that the state of mind required to be found guilty under this new felony hazing statute is unclear. It is uncertain whether someone who is the organizer and planner of the hazing event could be charged just as much as the pledge in the room who is not fully aware that there is a hazing plan underway. There are 14 other states that have passed felony hazing statutes, and these statutes are clearer and more explicit as to the state of mind required. There are better and more tightly drafted versions of the hazing statute. For example, Florida requires an intentional or reckless mental state; Texas requires an intentional, knowing, or reckless mental state; Ohio requires a reckless mental state; and New York requires a reckless mental state. The committee is encouraged to look at these statutes before the bill moves forward.

Persons Testifying: PRO: Representative Mari Leavitt, Prime Sponsor; Jolayne Houtz; Hector Martinez; Collin Bannister, ASWSU; Bob Embrey; Charlie Gartenberg; Gary Jenkins, Pullman Police Chief (Ret.).

CON: David Trieweiler, Washington Association of Criminal Defense Lawyers/Washington Defender Association.

OTHER: Antonio Ginatta, Columbia Legal Services.

Persons Signed In To Testify But Not Testifying: No one.