

By: Zaffirini

S. B. No. 48

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the offense of hazing.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

4 SECTION 1. Section 37.151(6), Education Code, is amended to
5 read as follows:

6 (6) "Hazing" means any intentional, knowing, or
7 reckless act, occurring on or off the campus of an educational
8 institution, by one person alone or acting with others, directed
9 against a student [~~, that endangers the mental or physical health or~~
10 ~~safety of a student~~] for the purpose of pledging, being initiated
11 into, affiliating with, holding office in, or maintaining
12 membership in an organization if the act:

13 (A) is [• The term includes:]

14 [A] any type of physical brutality, such as
15 whipping, beating, striking, branding, electronic shocking,
16 placing of a harmful substance on the body, or similar activity;

17 (B) involves [any type of physical activity, such
18 as] sleep deprivation, exposure to the elements, confinement in a
19 small space, calisthenics, or other similar activity that subjects
20 the student to an unreasonable risk of harm or that adversely
21 affects the mental or physical health or safety of the student;

22 (C) involves [any activity involving]
23 consumption of a food, liquid, alcoholic beverage, liquor, drug, or
24 other substance, other than as described by Paragraph (F), that

1 subjects the student to an unreasonable risk of harm or that
2 adversely affects the mental or physical health or safety of the
3 student;

4 (D) is any activity that:

5 (i) a reasonable person would believe
6 intimidates or threatens the student with ostracism, ~~[that]~~
7 subjects the student to extreme mental stress, shame, or
8 humiliation, ~~[that]~~ adversely affects the mental health or dignity
9 of the student, or discourages the student from entering or
10 remaining registered in an educational institution; ~~[,]~~ or

11 (ii) ~~[that]~~ may reasonably be expected to
12 cause the [a] student to leave the organization or the institution
13 rather than submit to the activity ~~[acts described in this~~
14 ~~subdivision]~~; ~~[and]~~

15 (E) is any activity that induces, causes, or
16 requires the student to perform a duty or task that involves a
17 violation of a state or federal penal law or a penal ordinance of a
18 political subdivision; or

19 (F) involves coercing, as defined by Section
20 1.07, Penal Code, the student to consume an alcoholic beverage,
21 liquor, or drug or that creates an environment in which the student
22 reasonably feels coerced to consume any of those substances [the
23 Penal Code].

24 SECTION 2. Section 37.155, Education Code, is amended to
25 read as follows:

26 Sec. 37.155. IMMUNITY FROM PROSECUTION OR CIVIL LIABILITY
27 AVAILABLE. (a) In the prosecution of an offense under this

1 subchapter, the court may grant immunity from prosecution for the
2 offense to each person who is subpoenaed to testify for the
3 prosecution and who does testify for the prosecution.

4 **(b)** Any person who voluntarily reports [~~reporting~~] a
5 specific hazing incident involving a student in an educational
6 institution to the dean of students or other appropriate official
7 of the institution is immune from civil [~~or criminal~~] liability
8 that might otherwise be incurred [~~or imposed~~] as a result of the
9 reported hazing incident if the person:

10 **(1)** reports the incident before being contacted by the
11 institution concerning the incident or otherwise being included in
12 the institution's investigation of the incident; and

13 **(2)** as determined by the dean of students or other
14 appropriate official of the institution designated by the
15 institution, cooperates in good faith throughout any institutional
16 process regarding the incident [~~report~~].

17 **(c)** Immunity under Subsection (b) extends to participation
18 in any judicial proceeding resulting from the report.

19 **(d)** A person is not immune under Subsection (b) if the
20 person:

21 **(1)** reports the person's own act of hazing; or
22 **(2)** reports an incident of hazing [~~reporting~~] in bad
23 faith or with malice [~~is not protected by this section~~].

24 SECTION 3. Subchapter F, Chapter 37, Education Code, is
25 amended by adding Section 37.158 to read as follows:

26 Sec. 37.158. VENUE. **(a)** In this section, "prosecuting
27 attorney" means a county attorney, district attorney, or criminal

1 district attorney.

2 (b) An offense under this subchapter may be prosecuted:

3 (1) in any county in which the offense may be
4 prosecuted under other law; or

5 (2) if the consent required by Subsection (c) is
6 provided, in a county, other than a county described by Subdivision
7 (1), in which is located the educational institution campus at
8 which a victim of the offense is enrolled.

9 (c) An offense under this subchapter may be prosecuted in a
10 county described by Subsection (b)(2) only with the written consent
11 of a prosecuting attorney of a county described by Subsection
12 (b)(1) who has authority to prosecute an offense under this
13 subchapter.

14 SECTION 4. Section 51.936(c), Education Code, is amended to
15 read as follows:

16 (c) Not later than the 21st day of each semester,
17 each [Each] postsecondary educational institution shall distribute
18 to each student enrolled at the institution [during the first three
19 weeks of each semester]:

20 (1) a summary of the provisions of Subchapter F,
21 Chapter 37; and

22 (2) a list of organizations that have been disciplined
23 for hazing or convicted for hazing on or off the campus of the
24 institution during the preceding three years.

25 SECTION 5. The change in law made by this Act applies only
26 to an offense committed on or after the effective date of this Act.
27 An offense committed before the effective date of this Act is

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1 governed by the law in effect when the offense was committed, and
2 the former law is continued in effect for that purpose. For
3 purposes of this section, an offense was committed before the
4 effective date of this Act if any element of the offense was
5 committed before that date.

6 SECTION 6. Section 37.155, Education Code, as amended by
7 this Act, applies only to a civil cause of action that accrues on or
8 after the effective date of this Act. An action that accrued before
9 the effective date of this Act is governed by the law in effect at
10 the time the action accrued, and that law is continued in effect for
11 that purpose.

12 SECTION 7. This Act takes effect September 1, 2009.