

1-1 By: Zaffirini S.B. No. 48
1-2 (In the Senate - Filed November 10, 2008; February 10, 2009,
1-3 read first time and referred to Committee on Higher Education;
1-4 March 23, 2009, reported favorably by the following vote: Yeas 5,
1-5 Nays 0; March 23, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the offense of hazing.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Subdivision (6), Section 37.151, Education Code,
1-11 is amended to read as follows:

1-12 (6) "Hazing" means any intentional, knowing, or
1-13 reckless act, occurring on or off the campus of an educational
1-14 institution, by one person alone or acting with others, directed
1-15 against a student [~~, that endangers the mental or physical health or~~
1-16 ~~safety of a student~~] for the purpose of pledging, being initiated
1-17 into, affiliating with, holding office in, or maintaining
1-18 membership in an organization if the act:

1-19 (A) is [~~. The term includes:~~

1-20 [~~(A)~~] any type of physical brutality, such as
1-21 whipping, beating, striking, branding, electronic shocking,
1-22 placing of a harmful substance on the body, or similar activity;

1-23 (B) involves [~~any type of physical activity, such~~
1-24 ~~as~~] sleep deprivation, exposure to the elements, confinement in a
1-25 small space, calisthenics, or other similar activity that subjects
1-26 the student to an unreasonable risk of harm or that adversely
1-27 affects the mental or physical health or safety of the student;

1-28 (C) involves [~~any activity involving~~]
1-29 consumption of a food, liquid, alcoholic beverage, liquor, drug, or
1-30 other substance, other than as described by Paragraph (F), that
1-31 subjects the student to an unreasonable risk of harm or that
1-32 adversely affects the mental or physical health or safety of the
1-33 student;

1-34 (D) is any activity that:

1-35 (i) a reasonable person would believe
1-36 intimidates or threatens the student with ostracism, [~~that~~]
1-37 subjects the student to extreme mental stress, shame, or
1-38 humiliation, [~~that~~] adversely affects the mental health or dignity
1-39 of the student, or discourages the student from entering or
1-40 remaining registered in an educational institution; [~~7~~] or

1-41 (ii) [~~that~~] may reasonably be expected to
1-42 cause the [~~a~~] student to leave the organization or the institution
1-43 rather than submit to the activity [~~acts described in this~~
1-44 ~~subdivision~~]; [~~and~~]

1-45 (E) is any activity that induces, causes, or
1-46 requires the student to perform a duty or task that involves a
1-47 violation of a state or federal penal law or a penal ordinance of a
1-48 political subdivision; or

1-49 (F) involves coercing, as defined by Section
1-50 1.07, Penal Code, the student to consume an alcoholic beverage,
1-51 liquor, or drug or that creates an environment in which the student
1-52 reasonably feels coerced to consume any of those substances [~~the~~
1-53 ~~Penal Code~~].

1-54 SECTION 2. Section 37.155, Education Code, is amended to
1-55 read as follows:

1-56 Sec. 37.155. IMMUNITY FROM PROSECUTION OR CIVIL LIABILITY
1-57 AVAILABLE. (a) In the prosecution of an offense under this
1-58 subchapter, the court may grant immunity from prosecution for the
1-59 offense to each person who is subpoenaed to testify for the
1-60 prosecution and who does testify for the prosecution.

1-61 (b) Any person who voluntarily reports [~~reporting~~] a
1-62 specific hazing incident involving a student in an educational
1-63 institution to the dean of students or other appropriate official
1-64 of the institution is immune from civil [~~or criminal~~] liability

2-1 that might otherwise be incurred [~~or imposed~~] as a result of the
2-2 reported hazing incident if the person:

2-3 (1) reports the incident before being contacted by the
2-4 institution concerning the incident or otherwise being included in
2-5 the institution's investigation of the incident; and

2-6 (2) as determined by the dean of students or other
2-7 appropriate official of the institution designated by the
2-8 institution, cooperates in good faith throughout any institutional
2-9 process regarding the incident [~~report~~].

2-10 (c) Immunity under Subsection (b) extends to participation
2-11 in any judicial proceeding resulting from the report.

2-12 (d) A person is not immune under Subsection (b) if the
2-13 person:

2-14 (1) reports the person's own act of hazing; or

2-15 (2) reports an incident of hazing [~~reporting~~] in bad
2-16 faith or with malice [~~is not protected by this section~~].

2-17 SECTION 3. Subchapter F, Chapter 37, Education Code, is
2-18 amended by adding Section 37.158 to read as follows:

2-19 Sec. 37.158. VENUE. (a) In this section, "prosecuting
2-20 attorney" means a county attorney, district attorney, or criminal
2-21 district attorney.

2-22 (b) An offense under this subchapter may be prosecuted:

2-23 (1) in any county in which the offense may be
2-24 prosecuted under other law; or

2-25 (2) if the consent required by Subsection (c) is
2-26 provided, in a county, other than a county described by Subdivision
2-27 (1), in which is located the educational institution campus at
2-28 which a victim of the offense is enrolled.

2-29 (c) An offense under this subchapter may be prosecuted in a
2-30 county described by Subsection (b)(2) only with the written consent
2-31 of a prosecuting attorney of a county described by Subsection
2-32 (b)(1) who has authority to prosecute an offense under this
2-33 subchapter.

2-34 SECTION 4. Subsection (c), Section 51.936, Education Code,
2-35 is amended to read as follows:

2-36 (c) Not later than the 21st day of each semester,
2-37 each [~~Each~~] postsecondary educational institution shall distribute
2-38 to each student enrolled at the institution [~~during the first three~~
2-39 weeks of each semester]:

2-40 (1) a summary of the provisions of Subchapter F,
2-41 Chapter 37; and

2-42 (2) a list of organizations that have been disciplined
2-43 for hazing or convicted for hazing on or off the campus of the
2-44 institution during the preceding three years.

2-45 SECTION 5. The change in law made by this Act applies only
2-46 to an offense committed on or after the effective date of this Act.
2-47 An offense committed before the effective date of this Act is
2-48 governed by the law in effect when the offense was committed, and
2-49 the former law is continued in effect for that purpose. For
2-50 purposes of this section, an offense was committed before the
2-51 effective date of this Act if any element of the offense was
2-52 committed before that date.

2-53 SECTION 6. Section 37.155, Education Code, as amended by
2-54 this Act, applies only to a civil cause of action that accrues on or
2-55 after the effective date of this Act. An action that accrued before
2-56 the effective date of this Act is governed by the law in effect at
2-57 the time the action accrued, and that law is continued in effect for
2-58 that purpose.

2-59 SECTION 7. This Act takes effect September 1, 2009.

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