

By: Zaffirini, et al.

S.B. No. 38

A BILL TO BE ENTITLED

AN ACT

relating to the offense of hazing.

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

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

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

(A) is~~[. The term includes:~~

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

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

(C) involves ~~[any activity involving]~~ consumption of a food, liquid, alcoholic beverage, liquor, drug, or 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 intimidates or~~
5 ~~threatens the student with ostracism, that subjects the student to~~
6 ~~extreme mental stress, shame, or humiliation, that adversely~~
7 ~~affects the mental health or dignity of the student or discourages~~
8 ~~the student from entering or remaining registered in an educational~~
9 ~~institution, or that may reasonably be expected to cause a student~~
10 ~~to leave the organization or the institution rather than submit to~~
11 ~~acts described in this subdivision; and~~

12 [~~(E)~~] any activity that induces, causes, or
13 requires the student to perform a duty or task that involves a
14 violation of the Penal Code; or

15 (E) involves coercing, as defined by Section
16 1.07, Penal Code, the student to consume an alcoholic beverage,
17 liquor, or drug.

18 SECTION 2. Section 37.155, Education Code, is amended to
19 read as follows:

20 Sec. 37.155. IMMUNITY FROM PROSECUTION OR CIVIL LIABILITY
21 AVAILABLE. (a) In the prosecution of an offense under this
22 subchapter, the court may grant immunity from prosecution for the
23 offense to each person who is subpoenaed to testify for the
24 prosecution and who does testify for the prosecution.

25 (b) Any person who voluntarily reports [~~reporting~~]
26 a specific hazing incident involving a student in an educational
27 institution to the dean of students or other appropriate official

1 of the institution is immune from civil or criminal liability that
2 might otherwise be incurred or imposed as a result of the reported
3 hazing incident if the person:

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

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

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

13 (d) A person is not immune under Subsection (b) if the
14 person:

15 (1) reports the person's own act of hazing; or

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

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

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

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

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

26 (2) if the consent required by Subsection (c) is
27 provided, in a county, other than a county described by Subdivision

1 (1), in which is located the educational institution campus at
2 which a victim of the offense is enrolled.

3 (c) An offense under this subchapter may be prosecuted in a
4 county described by Subsection (b)(2) only with the written consent
5 of a prosecuting attorney of a county described by Subsection
6 (b)(1) who has authority to prosecute an offense under this
7 subchapter.

8 SECTION 4. Section 51.936, Education Code, is amended by
9 amending Subsection (c) and adding Subsections (c-1) and (c-2) to
10 read as follows:

11 (c) Not later than the 14th day before the first class day of
12 each fall or spring semester, each ~~Each~~ postsecondary educational
13 institution shall distribute to each student enrolled at the
14 institution ~~[during the first three weeks of each semester]:~~

15 (1) a summary of the provisions of Subchapter F,
16 Chapter 37; and

17 (2) a copy of, or an electronic link to a copy of, the
18 report required under Subsection (c-1) ~~[list of organizations that~~
19 ~~have been disciplined for hazing or convicted for hazing on or off~~
20 ~~the campus of the institution during the preceding three years]~~.

21 (c-1) Each postsecondary educational institution shall
22 develop and post in a prominent location on the institution's
23 Internet website a report on hazing committed on or off campus by an
24 organization registered with or recognized by the institution. The
25 report:

26 (1) must include information regarding each
27 disciplinary action taken by the institution against an

1 organization for hazing, and each conviction of hazing under
2 Section 37.153 by an organization, during the three years preceding
3 the date on which the report is issued or updated, including:

4 (A) the name of the organization disciplined or
5 convicted;

6 (B) the date on which the incident occurred or
7 the citation was issued, if applicable;

8 (C) the date on which the institution's
9 investigation into the incident, if any, was initiated;

10 (D) a general description of:

11 (i) the incident;

12 (ii) the violations of the institution's
13 code of conduct or the criminal charges, as applicable;

14 (iii) the findings of the institution or
15 court; and

16 (iv) any sanctions imposed by the
17 institution, or any fines imposed by the court, on the
18 organization; and

19 (E) the date on which the institution's
20 disciplinary process was resolved or on which the conviction became
21 final;

22 (2) must be updated to include information regarding
23 each disciplinary process or conviction not later than the 30th day
24 after the date on which the disciplinary process is resolved or the
25 conviction becomes final, as applicable; and

26 (3) may not include personally identifiable student
27 information and must comply with the Family Educational Rights and

1 Privacy Act of 1974 (20 U.S.C. Section 1232g).

2 (c-2) Each postsecondary educational institution shall
3 provide to each student who attends the institution's student
4 orientation a notice regarding the nature and availability of the
5 report required under Subsection (c-1), including the report's
6 Internet website address.

7 SECTION 5. The change in law made by this Act applies only
8 to an offense committed on or after the effective date of this Act.
9 An offense committed before the effective date of this Act is
10 governed by the law in effect when the offense was committed, and
11 the former law is continued in effect for that purpose. For
12 purposes of this section, an offense was committed before the
13 effective date of this Act if any element of the offense was
14 committed before that date.

15 SECTION 6. Section 37.155, Education Code, as amended by
16 this Act, applies only to a civil cause of action that accrues on or
17 after the effective date of this Act. An action that accrued before
18 the effective date of this Act is governed by the law in effect at
19 the time the action accrued, and that law is continued in effect for
20 that purpose.

21 SECTION 7. Section 51.936(c), Education Code, as amended by
22 this Act, and Section 51.936(c-2), Education Code, as added by this
23 Act, apply beginning with the 2020 spring semester.

24 SECTION 8. Not later than January 1, 2020, each
25 postsecondary educational institution shall develop and post on the
26 institution's Internet website the report required under Section
27 51.936(c-1), Education Code, as added by this Act.

1 SECTION 9. This Act takes effect September 1, 2019.