

1-1 By: Zaffirini, Campbell S.B. No. 38
 1-2 (In the Senate - Filed November 12, 2018; February 1, 2019,
 1-3 read first time and referred to Committee on Criminal Justice;
 1-4 April 1, 2019, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 5, Nays 1; April 1, 2019,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8 Whitmire	X			
1-9 Huffman	X			
1-10 Buckingham		X		
1-11 Flores	X			
1-12 Hughes			X	
1-13 Miles	X			
1-14 Perry	X			

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 38 By: Perry

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the offense of hazing.
 1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-21 SECTION 1. Section 37.151(6), Education Code, is amended to
 1-22 read as follows:
 1-23 (6) "Hazing" means any intentional, knowing, or
 1-24 reckless act, occurring on or off the campus of an educational
 1-25 institution, by one person alone or acting with others, directed
 1-26 against a student~~[, that endangers the mental or physical health or~~
 1-27 ~~safety of a student]~~ for the purpose of pledging, being initiated
 1-28 into, affiliating with, holding office in, or maintaining
 1-29 membership in an organization if the act:
 1-30 (A) ~~is [The term includes:~~
 1-31 ~~[(A)]~~ any type of physical brutality, such as
 1-32 whipping, beating, striking, branding, electronic shocking,
 1-33 placing of a harmful substance on the body, or similar activity;
 1-34 (B) ~~involves [any type of physical activity, such~~
 1-35 ~~as]~~ sleep deprivation, exposure to the elements, confinement in a
 1-36 small space, calisthenics, or other similar activity that subjects
 1-37 the student to an unreasonable risk of harm or that adversely
 1-38 affects the mental or physical health or safety of the student;
 1-39 (C) ~~involves [any activity involving]~~
 1-40 consumption of a food, liquid, alcoholic beverage, liquor, drug, or
 1-41 other substance, other than as described by Paragraph (F), that
 1-42 subjects the student to an unreasonable risk of harm or that
 1-43 adversely affects the mental or physical health or safety of the
 1-44 student;
 1-45 (D) is any activity that:
 1-46 (i) a reasonable person would believe
 1-47 intimidates or threatens the student with ostracism, [that]
 1-48 subjects the student to extreme mental stress, shame, or
 1-49 humiliation, [that] adversely affects the mental health or dignity
 1-50 of the student, or discourages the student from entering or
 1-51 remaining registered in an educational institution; [r] or
 1-52 (ii) [that] may reasonably be expected to
 1-53 cause the [a] student to leave the organization or the institution
 1-54 rather than submit to the activity [acts described in this
 1-55 subdivision]; [and]
 1-56 (E) is any activity that induces, causes, or
 1-57 requires the student to perform a duty or task that involves a
 1-58 violation of the Penal Code; or
 1-59 (F) involves coercing, as defined by Section
 1-60 1.07, Penal Code, the student to consume an alcoholic beverage,

2-1 liquor, or drug.

2-2 SECTION 2. Section 37.152(a), Education Code, is amended to
2-3 read as follows:

2-4 (a) A person commits an offense if the person:

2-5 (1) engages in hazing;

2-6 (2) solicits, encourages, directs, aids, or attempts
2-7 to aid another in engaging in hazing;

2-8 (3) recklessly permits hazing to occur; ~~or~~

2-9 (4) has firsthand knowledge of the planning of a
2-10 specific hazing incident involving a student in an educational
2-11 institution, or has firsthand knowledge that a specific hazing
2-12 incident has occurred, and knowingly fails to report that knowledge
2-13 in writing to the dean of students or other appropriate official of
2-14 the institution; or

2-15 (5) with the intent to prevent another person from
2-16 documenting or reporting a hazing incident:

2-17 (A) disables or takes the other person's
2-18 telephone or other electronic communication device;

2-19 (B) requires the other person to relinquish
2-20 possession of the other person's telephone or other electronic
2-21 communication device; or

2-22 (C) denies the other person access to a telephone
2-23 or other electronic communication device.

2-24 SECTION 3. Section 37.155, Education Code, is amended to
2-25 read as follows:

2-26 Sec. 37.155. IMMUNITY FROM PROSECUTION OR CIVIL LIABILITY
2-27 AVAILABLE. (a) In the prosecution of an offense under this
2-28 subchapter, the court may grant immunity from prosecution for the
2-29 offense to each person who is subpoenaed to testify for the
2-30 prosecution and who does testify for the prosecution.

2-31 (b) Any person who voluntarily reports ~~reporting~~ a
2-32 specific hazing incident involving a student in an educational
2-33 institution to the dean of students or other appropriate official
2-34 of the institution is immune from civil or criminal liability that
2-35 might otherwise be incurred or imposed as a result of the reported
2-36 hazing incident if the person:

2-37 (1) reports the incident before being contacted by the
2-38 institution concerning the incident or otherwise being included in
2-39 the institution's investigation of the incident; and

2-40 (2) as determined by the dean of students or other
2-41 appropriate official of the institution designated by the
2-42 institution, cooperates in good faith throughout any institutional
2-43 process regarding the incident ~~report~~.

2-44 (c) Immunity under Subsection (b) extends to participation
2-45 in any judicial proceeding resulting from the report.

2-46 (d) A person is not immune under Subsection (b) if the
2-47 person:

2-48 (1) reports the person's own act of hazing; or

2-49 (2) reports an incident of hazing ~~reporting~~ in bad
2-50 faith or with malice ~~is not protected by this section~~.

2-51 SECTION 4. Subchapter F, Chapter 37, Education Code, is
2-52 amended by adding Section 37.158 to read as follows:

2-53 Sec. 37.158. VENUE. (a) In this section, "prosecuting
2-54 attorney" means a county attorney, district attorney, or criminal
2-55 district attorney.

2-56 (b) An offense under this subchapter may be prosecuted:

2-57 (1) in any county in which the offense may be
2-58 prosecuted under other law; or

2-59 (2) if the consent required by Subsection (c) is
2-60 provided, in a county, other than a county described by Subdivision
2-61 (1), in which is located the educational institution campus at
2-62 which a victim of the offense is enrolled.

2-63 (c) An offense under this subchapter may be prosecuted in a
2-64 county described by Subsection (b)(2) only with the written consent
2-65 of a prosecuting attorney of a county described by Subsection
2-66 (b)(1) who has authority to prosecute an offense under this
2-67 subchapter.

2-68 SECTION 5. Section 51.936, Education Code, is amended by
2-69 amending Subsection (c) and adding Subsections (c-1) and (c-2) to

3-1 read as follows:

3-2 (c) Not later than the 14th day before the first class day of
 3-3 each fall or spring semester, each [Each] postsecondary educational
 3-4 institution shall distribute to each student enrolled at the
 3-5 institution [during the first three weeks of each semester]:

3-6 (1) a summary of the provisions of Subchapter F,
 3-7 Chapter 37; and

3-8 (2) a copy of, or an electronic link to a copy of, the
 3-9 report required under Subsection (c-1) [~~list of organizations that~~
 3-10 ~~have been disciplined for hazing or convicted for hazing on or off~~
 3-11 ~~the campus of the institution during the preceding three years].~~

3-12 (c-1) Each postsecondary educational institution shall
 3-13 develop and post in a prominent location on the institution's
 3-14 Internet website a report on hazing committed on or off campus by an
 3-15 organization registered with or recognized by the institution. The
 3-16 report:

3-17 (1) must include information regarding each
 3-18 disciplinary action taken by the institution against an
 3-19 organization for hazing, and each conviction of hazing under
 3-20 Section 37.153 by an organization, during the three years preceding
 3-21 the date on which the report is issued or updated, including:

3-22 (A) the name of the organization disciplined or
 3-23 convicted;

3-24 (B) the date on which the incident occurred or
 3-25 the citation was issued, if applicable;

3-26 (C) the date on which the institution's
 3-27 investigation into the incident, if any, was initiated;

3-28 (D) a general description of:

3-29 (i) the incident;

3-30 (ii) the violations of the institution's
 3-31 code of conduct or the criminal charges, as applicable;

3-32 (iii) the findings of the institution or
 3-33 court; and

3-34 (iv) any sanctions imposed by the
 3-35 institution, or any fines imposed by the court, on the
 3-36 organization; and

3-37 (E) the date on which the institution's
 3-38 disciplinary process was resolved or on which the conviction became
 3-39 final;

3-40 (2) must be updated to include information regarding
 3-41 each disciplinary process or conviction not later than the 30th day
 3-42 after the date on which the disciplinary process is resolved or the
 3-43 conviction becomes final, as applicable; and

3-44 (3) may not include personally identifiable student
 3-45 information and must comply with the Family Educational Rights and
 3-46 Privacy Act of 1974 (20 U.S.C. Section 1232g).

3-47 (c-2) Each postsecondary educational institution shall
 3-48 provide to each student who attends the institution's student
 3-49 orientation a notice regarding the nature and availability of the
 3-50 report required under Subsection (c-1), including the report's
 3-51 Internet website address.

3-52 SECTION 6. The change in law made by this Act applies only
 3-53 to an offense committed on or after the effective date of this Act.
 3-54 An offense committed before the effective date of this Act is
 3-55 governed by the law in effect when the offense was committed, and
 3-56 the former law is continued in effect for that purpose. For
 3-57 purposes of this section, an offense was committed before the
 3-58 effective date of this Act if any element of the offense was
 3-59 committed before that date.

3-60 SECTION 7. Section 37.155, Education Code, as amended by
 3-61 this Act, applies only to a civil cause of action that accrues on or
 3-62 after the effective date of this Act. An action that accrued before
 3-63 the effective date of this Act is governed by the law in effect at
 3-64 the time the action accrued, and that law is continued in effect for
 3-65 that purpose.

3-66 SECTION 8. Section 51.936(c), Education Code, as amended by
 3-67 this Act, and Section 51.936(c-2), Education Code, as added by this
 3-68 Act, apply beginning with the 2020 spring semester.

3-69 SECTION 9. Not later than January 1, 2020, each

4-1 postsecondary educational institution shall develop and post on the
4-2 institution's Internet website the report required under Section
4-3 [51.936\(c-1\)](#), Education Code, as added by this Act.
4-4 SECTION 10. This Act takes effect September 1, 2019.

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