

2018 Regular Session

HOUSE BILL NO. 78

BY REPRESENTATIVE NANCY LANDRY

CRIME/FELONIES: Amends penalties relative to the crime of hazing

1 AN ACT

2 To enact R.S. 14:40.8 and to amend and reenact R.S. 17:1801, relative to acts of hazing; to
3 create the crime of hazing; to provide exceptions, definitions, and criminal penalties
4 relative to the crime of hazing; to provide relative to consequences imposed by the
5 educational institution for certain acts of hazing; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 14:40.8 is hereby enacted to read as follows:

8 §40.8. Hazing

9 A.(1) Except as provided by Subsection D of this Section, no person shall
10 engage in or participate in the hazing of another person.

11 (2) If any person serving as a representative or officer of an organization
12 knew and failed to report that one or more of the organization's members were
13 engaging in or participating in the hazing of another person the organization may be
14 subject to the penalties set forth in Paragraph (B)(2) of this Section.

15 B.(1)(a) Except as provided by Subparagraph (b) of this Paragraph, any
16 person who engaged in or participated in the hazing shall be either fined up to one
17 thousand dollars, imprisoned for up to six months, or both.

18 (b) If the hazing results in the serious bodily injury or death of the victim,
19 any person who engaged in or participated in the hazing shall be fined up to ten
20 thousand dollars and imprisoned, with or without hard labor, for up to five years.

1 (2) The organization to which the person who engaged in or participated in
2 the hazing activity belongs may be subject to the following:

3 (a) Payment of a fine of up to one hundred thousand dollars.

4 (b) Forfeiture of any public funds received by the organization.

5 (c) Forfeiture of all rights and privileges of being an organization that is
6 organized and operating at the educational institution.

7 C. For purposes of this Section:

8 (1) "Educational institution" means any elementary or secondary school or
9 any postsecondary education institution in this state.

10 (2)(a) "Hazing" is any intentional, knowing, or reckless act by a person
11 acting alone or acting with others that is directed against another when both of the
12 following apply:

13 (i) The person knew or should have known that the act endangers the
14 physical health or safety of the other person or causes severe emotional distress.

15 (ii) The act was associated with pledging, being initiated into, affiliating
16 with, participating in, holding office in, or maintaining membership in any
17 organization.

18 (b) "Hazing" includes but is not limited to any of the following acts
19 associated with pledging, being initiated into, affiliating with, participating in,
20 holding office in, or maintaining membership in any organization:

21 (i) Physical brutality, such as whipping, beating, paddling, striking, branding,
22 electronic shocking, placing of a harmful substance on the body, or similar activity.

23 (ii) Physical activity, such as sleep deprivation, exposure to the elements,
24 confinement in a small space, or calisthenics, that subjects the other person to an
25 unreasonable risk of harm or that adversely affects the physical health or safety of
26 the individual or causes severe emotional distress.

27 (iii) Activity involving consumption of food, liquid, or any other substance,
28 including but not limited to an alcoholic beverage or drug, that subjects the

1 individual to an unreasonable risk of harm or that adversely affects the physical
2 health or safety of the individual or causes severe emotional distress.

3 (iv) Activity that induces, causes, or requires an individual to perform a duty
4 or task that involves the commission of a crime or an act of hazing.

5 (c) A physical activity that is normal and customary in an athletic, physical
6 education, military training, or similar program sanctioned by the educational
7 institution is not considered "hazing" for purposes of this Section.

8 (3) "Organization" means a fraternity, sorority, association, corporation,
9 order, society, corps, cooperative, club, service group, social group, band, spirit
10 group, athletic team, or similar group whose members are primarily students at, or
11 former students of, an educational institution. For purposes of this Section,
12 "organization" shall not include the educational institution.

13 (4) "Pledging", also known as "recruitment" or "rushing" means any action
14 or activity related to becoming a member of an organization.

15 D.(1) This Section does not apply to an individual who is the subject of the
16 hazing, regardless of whether the individual voluntarily allowed himself to be hazed.

17 (2) It is not a defense to prosecution for a violation of this Section that the
18 individual against whom the hazing was directed consented to or acquiesced in the
19 hazing.

20 E.(1) The penalties provided in Subsection B of this Section may be imposed
21 in addition to any penalty that may be imposed for any other criminal offense arising
22 from the same incident or activity, and in addition to any penalty imposed by the
23 organization or educational institution pursuant to its by-laws, rules, or policies
24 regarding hazing.

25 (2) Nothing in this Section precludes any civil remedy provided by law.

26 Section 2. R.S. 17:1801 is hereby amend and reenacted to read as follows:

27 §1801. Hazing prohibited; ~~penalties~~

28 A. Hazing in any form, or the use of any method of initiation into ~~fraternal~~
29 organizations in any educational institution supported wholly or in part by public

1 funds, which is likely to cause bodily danger or physical punishment to any student
2 or other person attending any such institution is prohibited.

3 B. Whoever violates the provisions of this Section ~~shall be fined not less~~
4 ~~than ten dollars nor more than one hundred dollars, or imprisoned for not less than~~
5 ~~ten days nor more than thirty days, or both, and in addition,~~ shall be ~~expelled~~
6 suspended or dismissed from the educational institution and not permitted to return
7 during the current session or term in which the violation occurs. In addition, the
8 person violating the provisions of this Section may also be subject to the provisions
9 of R.S. 14:40.8 which provides penalties for certain hazing activity.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 78 Original

2018 Regular Session

Nancy Landry

Abstract: Creates the crime of hazing at certain educational institutions and provides for exceptions, definitions, and penalties relative to the offense, and further provides relative to consequences imposed by the educational institution for acts of hazing.

Present law provides that hazing in any form, or the use of any method of initiation into fraternal organizations in any educational institution supported wholly or in part by public funds, which is likely to cause bodily danger or physical punishment to any student or other person attending any such institution is prohibited. Further provides that whoever violates these provisions of present law shall be fined not less than \$10 nor more than \$100, or imprisoned for not less than 10 days nor more than 30 days, or both, and in addition, shall be expelled from the educational institution and not permitted to return during the current session or term in which the violation occurs.

Proposed law amends present law to apply to any organization in an educational institution, and to remove the fine and term of imprisonment as consequences for engaging in this activity and provide that the student may be dismissed or suspended from the educational institution for the current session or term in which the violation occurs. Further provides that persons who engage in such activity may be subject to the provisions of proposed law which provides penalties for persons who engage in hazing activity.

Proposed law creates the crime of hazing which prohibits any person from engaging in or participating in the hazing of another person, regardless of whether the person voluntarily allowed himself to be hazed or consented to the hazing. Further provides for the following penalties:

- (1) Either a fine of up to \$1,000, imprisonment for up to six months, or both.
- (2) If the hazing results in the serious bodily injury or death of the victim, the person who engaged in or participated in the hazing shall be fined up to \$10,000, and imprisoned, with or without hard labor, for up to five years.

Proposed law also provides that if any person serving as a representative or officer of an organization knew or should have known that one or more of the organization's members were engaging in or participating in the hazing of another person the organization may be subject to the following penalties:

- (1) Payment of a fine of up to \$100,000.
- (2) Forfeiture of any public funds received by the organization.
- (3) Forfeiture of all rights and privileges of being an organization that is organized and operating at the educational institution.

Proposed law defines "hazing" as any intentional, knowing, or reckless act by a person acting alone or acting with others that is directed against another when both of the following apply:

- (1) The person knew or should have known that the act endangers the physical health or safety of the other person or causes severe emotional distress.
- (2) The act was associated with pledging, being initiated into, affiliating with, participating in, holding office in, or maintaining membership in any organization.

Proposed law further provides that "hazing" includes but is not limited to any of the following that is associated with pledging, being initiated into, affiliating with, participating in, holding office in, or maintaining membership in any organization:

- (1) Physical brutality, such as whipping, beating, striking, branding, electronic shocking, placing of a harmful substance on the body, or similar activity.
- (2) Physical activity, such as sleep deprivation, exposure to the elements, confinement in a small space, or calisthenics, that subjects the other person to an unreasonable risk of harm or that adversely affects the physical health or safety of the individual or causes severe emotional distress.
- (3) Activity involving consumption of food, liquid, or any other substance, including but not limited to an alcoholic beverage or drug, that subjects the individual to an unreasonable risk of harm or that adversely affects the physical health or safety of the individual or causes severe emotional distress.
- (4) Activity that induces, causes, or requires an individual to perform a duty or task that involves the commission of a crime or an act of hazing.

Proposed law provides exceptions for normal physical activity associated with athletics, physical education, military training, or similar programs.

Proposed law also defines "organization" as a fraternity, sorority, association, corporation, order, society, corps, cooperative, club, service group, social group, band, spirit group, athletic team, or similar group whose members are primarily students at, or former students of, an elementary or secondary school or a postsecondary education institution in this state. "Organization", for purposes of proposed law, does not include the educational institution.

Finally, proposed law provides that the penalties provided by proposed law do not preclude any civil remedies provided by present law and may be imposed in addition to any penalty that may be imposed for any other present law criminal offense arising from the same incident or activity, and in addition to any penalty imposed by the organization or educational institution pursuant to its by-laws, rules, or policies regarding hazing.

(Amends R.S. 17:1801; Adds 14:40.8)