



Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 783 (Substitute S-1 as passed by the Senate)
Senate Bill 784 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Michelle A. McManus (S.B. 783)
Senator Nancy Cassis (S.B. 784)
Committee: Judiciary

Date Completed: 3-16-04

RATIONALE

Michigan is said to be one of seven states in the country that do not outlaw the practice of hazing. Traditionally, hazing was associated with college fraternities and sororities, and hazing activities were considered harmless pranks that sometimes went awry. Today, however, there are increasing reports of hazing at the high school and middle school levels, among athletic teams, marching bands, and other groups or clubs. Many hazing activities are reported to be physically harmful, dangerous, and/or sexually abusive, sometimes leading to serious physical injury or death. It has been suggested that Michigan should join the majority of other states that prohibit hazing.

CONTENT

Senate Bill 783 (S-1) would amend the Michigan Penal Code to prohibit hazing at an educational institution, and prescribe criminal penalties for hazing that resulted in injury or death. Senate Bill 784 (S-1) would amend the Code of Criminal Procedure to include in the sentencing guidelines hazing that resulted in death. Senate Bill 784 (S-1) is tie-barred to Senate Bill 783.

"Hazing" would mean an intentional, knowing, or reckless act by a person acting alone or with others that was directed against an individual, that the person knew or should have known endangered the individual's physical health or safety, and that was done for the purpose of pledging, being initiated into, affiliating with, holding office in, or maintaining membership in any

organization. Hazing would include any of the following done for that purpose:

- Physical brutality, such as whipping, beating, striking, branding, electronic shocking, placing of a harmful substance on the body, or similar activity.
- Physical activity, such as sleep deprivation, exposure to the elements, confinement in a small space, or calisthenics, that subjected the individual to an unreasonable risk of harm or that adversely affected his or her physical health or safety.
- Activity involving consumption of a food, liquid, alcoholic beverage, liquor, drug, or other substance that subjected the individual to an unreasonable risk of harm or that adversely affected his or her physical health or safety.
- Activity that induced, caused, or required an individual to perform a duty or task that involved committing a crime or an act of hazing.

"Educational institution" would mean a public or private middle school, junior high school, high school, vocational school, college, or university located in Michigan.

Senate Bill 783 (S-1)

The bill would prohibit a person who attended or was employed by an educational institution from engaging or participating in the hazing of an individual. The prohibition would not apply to an individual who was the subject of the hazing, regardless of whether he or she voluntarily allowed himself or herself to be hazed. It also would

not apply to an activity that was normal and customary in an athletic, physical education, military training, or similar program sanctioned by the educational institution.

A violation would be a crime punishable as shown in Table 1, depending on whether it resulted in physical injury, serious impairment of a body function, or death.

Table 1

| Result | Level | Maximum Imprisonment | Maximum Fine |
|-----------------|-------------|----------------------|--------------|
| Physical injury | Misdemeanor | 93 days | \$1,000 |
| Serious impair. | Misdemeanor | 1 year | \$2,500 |
| Death | Felony | 15 years | \$10,000 |

A criminal penalty under the bill could be imposed in addition to any penalty that could be imposed for any other criminal offense arising from the same conduct.

It would not be a defense to a prosecution for hazing that the individual against whom the hazing was directed consented to or acquiesced in the hazing.

“Serious impairment of a body function” would mean that term as defined in Section 479a of the Penal Code, i.e., one or more of the following:

- Loss of a limb or the use of a limb.
- Loss of a foot, hand, finger, or thumb or the use of a foot, hand, finger, or thumb.
- Loss of an eye or ear or the use of an eye or ear.
- Loss or substantial impairment of a bodily function.
- Serious visible disfigurement.
- A comatose state that lasts for more than three days.
- Measurable brain or mental impairment.
- A skull fracture or other serious bone fracture.
- Subdural hemorrhage or subdural hematoma.
- Loss of an organ.

The proposed section of the Penal Code would be named "Garret's Law".

Senate Bill 784 (S-1)

The bill would include hazing resulting in death in the sentencing guidelines. The offense would be a Class C felony against a person subject to a statutory maximum of 15 years.

Proposed MCL 750.411t (S.B. 783)
MCL 777.16t (S.B. 784)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

According to a news report, in 2000 Alfred University in New York conducted a major study on hazing and found that more than 1.5 million U.S. high school students—or 48% of those who belonged to school groups—were subjected to hazing each year (“Hazing Grows Younger and More Violent”, Fox News Channel, 11-7-03). This report described incidents across the country in which hazing had involved physical abuse and injury, including cases in which the following occurred: Three high school football players sexually brutalized younger teammates in New York; 15 high school students in Chicago were videotaped punching younger girls and dumping urine, paint, and animal entrails on them in a “powder puff” football incident; seven high school students in Wisconsin allegedly bound five freshman cheerleaders and a male student to trees with duct tape, dumped syrup and eggs on them, and left them there, as part of a homecoming hazing; and a college student in Alabama died after being forced to drink a fifth of alcohol while pledging a fraternity.

Michigan, too, has been the site of dangerous hazing activity. At Meads Mill Middle School in Northville, there evidently has been a traditional football drill called "eighth grade hit day", in which eighth graders chose seventh graders to take a running hit, while the younger students were not allowed to block or defend themselves. Last fall, after being hit three times, seventh grader Garret Drogosch suffered two broken bones, had two surgeries to insert pins and plates to reset the bones, and will need a

third operation to remove them. In another case, a Detroit high school student evidently was hit daily with a wooden paddle for more than a month, in a hazing ritual for a band fraternity. Another reported hazing incident involved a University of Michigan student who was hospitalized with kidney failure.

There is no good reason that any student should be put through this type of experience. Contrary to what some people might think, hazing does not develop discipline, build character, or teach respect. Like other forms of victimization, hazing breeds mistrust and alienation. It is bad enough when students are forced to endure embarrassment and humiliation in order to participate in a sport or belong to a club. When the hazing results in physical injury or death, those responsible should be subject to criminal sanctions, as the bills propose. By outlawing hazing, the bills would protect students and help make schools a safe environment.

Supporting Argument

Under the bills, school employees who encouraged, required, or otherwise participated in hazing also would be held accountable. In the Meads Mill Middle School incident, the football coaches reportedly supervised the drill and instructed the seventh grade students "...to stand with their arms by their sides and take the hits" ("Boy Recalls Terror of Team Hazing", *The Detroit News*, 3-10-04). Evidently, although the coaches were removed from their coaching positions, they are still teaching and have incurred no other penalties.

Supporting Argument

It is important that a person's consent to hazing or acquiescence in hazing would not be a defense under Senate Bill 783 (S-1). A student who appears to consent may simply be submitting to peer pressure and the desire to belong to a group, or may be intimidated by a teacher's instruction. Furthermore, it is questionable whether children can truly "consent" to dangerous acts committed against them.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bills would have an indeterminate fiscal impact on State and local government.

There are no data to indicate how many offenders would be convicted of the proposed crimes. There are also no data available to determine if hazing offenders are already being prosecuted and convicted of existing crimes for injuries or deaths associated with the act of hazing. The bills would increase costs only to the extent that additional offenders were convicted under the proposed statute or to the extent that offenders who presently are being convicted would receive additional consecutive sentences or longer sentences.

Local units of government incur the cost of intermediate sanctions, misdemeanor probation, and incarceration in a local facility, the costs of which vary by county. The State incurs the costs of felony probation at an average annual cost of \$1,800, as well as the cost of incarceration in a State facility at an average annual cost of \$28,000.

Fiscal Analyst: Bethany Wicksall

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.