



Senate Fiscal Agency
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Senate Bills 783 and 784 (as enrolled)
Sponsor: Senator Michelle A. McManus (S.B. 783)
 Senator Nancy Cassis (S.B. 784)
Senate Committee: Judiciary
House Committee: Criminal Justice

PUBLIC ACTS 111 & 112 of 2004

Date Completed: 8-17-04

RATIONALE

The practice of hazing traditionally 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 was suggested that Michigan should join the majority of other states that prohibit hazing.

guidelines hazing that results in serious injury or death.

The bills took effect on August 18, 2004. Senate Bill 784 was tie-barred to Senate Bill 783.

Senate Bill 783

The bill prohibits a person who attends, is employed by, or is a volunteer of an educational institution from engaging or participating in the hazing of an individual. The bill does not apply to an individual who is the subject of the hazing, regardless of whether he or she voluntarily allowed himself or herself to be hazed. It also does not apply to an activity that is normal and customary in an athletic, physical education, military training, or similar program sanctioned by the educational institution.

CONTENT

Senate Bill 783 added "Garret's Law" to the Michigan Penal Code to prohibit hazing at an educational institution; prescribe criminal penalties for hazing that results in injury or death; and require health facility personnel to notify law enforcement agencies of hazing injuries. Senate Bill 784 amended the Code of Criminal Procedure to include in the sentencing

A violation is a crime punishable as shown in Table 1, depending on whether it results 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.	Felony	5 years	\$2,500
Death	Felony	15 years	\$10,000

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

The bill specifies that it is not a defense to a prosecution for hazing that the individual against whom the hazing was directed consented to or acquiesced in the hazing.

If an employee or agent of a health facility knows or has reason to know that an individual who is being treated at the facility for a physical injury was injured as a result of hazing, the employee or agent must notify the local law enforcement agency, other than a law enforcement agency employed or operated by a college or university, while the individual is on the premises of the health facility.

The bill defines "hazing" as an intentional, knowing, or reckless act by a person acting alone or with others that is directed against an individual, that the person knew or should have known endangers the individual's physical health or safety, and that is done for the purpose of pledging, being initiated into, affiliating with, participating in, holding office in, or maintaining membership in any organization. Hazing includes 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 subjects the individual to an unreasonable risk of harm or that adversely affects his or her physical health or safety.
- Activity involving consumption of a food, liquid, alcoholic beverage, liquor, drug, or other substance that subjects the individual to an unreasonable risk of harm or that adversely affects his or her physical health or safety.
- Activity that induces, causes, or requires an individual to perform a duty or task that involves committing a crime or an act of hazing.

The bill defines "educational institution" as a public or private elementary school, middle school, junior high school, high school,

vocational school, college, or university located in Michigan.

"Organization" means a fraternity, sorority, association, corporation, order, society, corps, cooperative, club, service group, social group, athletic team, or similar group whose members are primarily students at an educational institution.

"Serious impairment of a body function" means 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.

Senate Bill 784

The bill includes hazing in the sentencing guidelines. The offense is a Class E felony against a person subject to a statutory maximum of five years' imprisonment if it results in serious impairment of a body function. If the hazing results in death, the offense is a Class C felony against a person subject to a statutory maximum of 15 years.

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 acute kidney failure after he and seven other pledges, over a two-day period, were subjected to hours of rigorous exercise and sleep deprivation, as well as forced to clean up garbage and to crawl on their hands and knees on a cement floor covered with glass shards.

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 provide. By outlawing hazing, the bills will protect students and help make schools a safe environment.

Supporting Argument

Under the bills, criminal liability will extend not only to students but also to school employees and volunteers who encourage, require, or otherwise participate in hazing. 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 continued to teach and incurred no other penalties.

Supporting Argument

It is important that a person's consent to hazing or acquiescence in hazing will not be a defense under Senate Bill 783. A student who appears to consent may simply be submitting to peer pressure and the desire to belong to a group, may be intimidated by a teacher's instruction, or might want to avoid the consequences of noncompliance. In the University of Michigan case, for example, the pledges apparently were told that they all would be rejected if one of them dropped out of the hazing. Furthermore, in the case of younger students, it is questionable whether children can truly "consent" to dangerous acts committed against them.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

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

There are no data to indicate how many offenders will be convicted of the new 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 will increase costs only to the extent that additional offenders are convicted under the new statute or to the extent that offenders who presently are being convicted will 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.