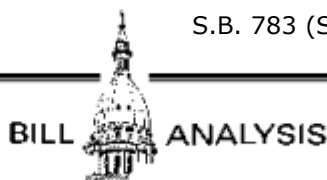




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Senate Bill 783 (Substitute S-1 as reported by the Committee of the Whole)
Senate Bill 784 (Substitute S-1 as reported)
Sponsor: Senator Michelle A. McManus (S. B. 783)
Senator Nancy Cassis (S. B. 784)
Committee: Judiciary

CONTENT

Senate Bills 783 (S-1) and 784 (S-1) would amend the Michigan Penal Code and the Code of Criminal Procedure, respectively, to prescribe criminal penalties for "hazing" at an educational institution that resulted in injury or death, and to include hazing that resulted in death in the sentencing guidelines. 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 and that the person knew or should have known would endanger 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) 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. It would not be a defense to a prosecution for hazing that the person against whom the hazing was directed consented to or acquiesced in the hazing.

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 impairment	Misdemeanor	1 year	\$2,500
Death	Felony	15 years	\$10,000

"Serious impairment of a body function" would be defined as it is 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; or loss of an organ.

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

Senate Bill 784 (S-1) would include hazing that caused death in the sentencing guidelines as a Class C felony against a person, with a statutory maximum sentence of 15 years' imprisonment.

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

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.

Date Completed: 3-16-04

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.