

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 727 Hazing

SPONSOR(S): Judiciary Committee, Criminal Justice Subcommittee, LaMarca and others

TIED BILLS: None **IDEN./SIM. BILLS:** CS/SB 1080

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	14 Y, 0 N, As CS	Frost	Hall
2) Higher Education & Career Readiness Subcommittee	13 Y, 0 N	McAlarney	Bishop
3) Judiciary Committee	15 Y, 0 N, As CS	Frost	Poche

SUMMARY ANALYSIS

The Legislature created the criminal offense of hazing in 2005, in response to the growing number of harmful incidents at educational institutions. A person in a student organization commits hazing by subjecting another member of, or applicant to, the organization to any action or situation which results in extreme physical or mental harassment associated with initiation, admission into, or affiliation with the organization. The crime does not apply to hazing committed on former members of an organization.

Hazing which creates a substantial risk of physical injury or death is a first degree misdemeanor, punishable by up to one year in county jail and a \$1,000 fine. Hazing resulting in serious bodily injury or death is a third degree felony, punishable by up to five years in prison and a \$5,000 fine. It is not a defense to a charge of hazing that:

- A victim consented to the activity;
- The activity was not part of an official event of or otherwise sanctioned by an organization; or
- The activity was not done as a condition of membership to an organization.

CS/CS/HB 727 expands the crime of hazing to include conduct committed:

- To perpetuate or further a tradition or ritual of an organization;
- To solicit another person to commit hazing;
- By an individual actively involved in the planning of hazing; and
- Against a former member of an organization.

The bill expands felony hazing to include conduct resulting in permanent injury to a victim.

The bill provides criminal immunity for the first person to call 911 to seek medical assistance for a hazing victim and for any individual who provides aid to a hazing victim by:

- Rendering cardiopulmonary resuscitation;
- Clearing a victim's airway;
- Utilizing a defibrillator; or
- Acting in good faith to stabilize or improve a victim's condition while waiting for medical assistance, law enforcement, or campus security to arrive.

As such, an individual who is aware of an injury caused by hazing is incentivized to seek and provide medical assistance for a victim without fear of implicating himself or herself criminally.

The bill may have an insignificant positive impact on the number of prison and jail beds by expanding the scope of conduct constituting hazing.

The bill provides an effective date of October 1, 2019.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0727e.JDC

DATE: 3/29/2019

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The Legislature passed the Chad Meredith Act of 2002 in response to the growing number of hazing incidents throughout the state, including the 2001 death of a University of Miami student for whom the act was named. In November 2001, Chad Meredith began drinking with two officers of a fraternity he wished to join.¹ After drinking to intoxication, the group decided to swim across Lake Osceola, where Meredith drowned with a blood alcohol level of 0.13.² Despite legislation criminalizing hazing, the problem persists on campuses throughout Florida.

In November 2011, Florida A&M University drum major Robert Champion died from injuries suffered during a hazing ritual known as "Crossing Bus C," in which band members repeatedly struck him while he moved down a bus aisle.³ Champion vomited and passed out following the ritual, and his bandmates called 911 when they were unable to feel his pulse; however, they did not tell the dispatcher about the beating. Champion's autopsy showed that he died from blunt force trauma causing hemorrhagic shock due to internal bleeding.⁴

In November 2017, Andrew Coffey, a 20-year-old pledging member (pledge) of a Florida State University fraternity, died of acute alcohol poisoning following "Big Brother Night," where fraternity members gave him a bottle of liquor to consume.⁵ Coffey passed out and was carried to a couch, where he remained unconscious. Autopsy results indicated Coffey's blood alcohol level was .447 and his peak blood alcohol level reached as high as .558.⁶ No one checked on Coffey until the next morning, when another pledge discovered he had no pulse. The pledge contacted five fraternity members and 11 minutes elapsed before he called 911;⁷ however, no person at the scene provided the address of their location to dispatch.⁸

In April 2018, Nicholas Mauricio, a former member of a Florida State University fraternity, participated in a long-standing fraternity ritual known as "Scumbag of the Week," in which an individual was chosen to stand in front of the entire fraternity and be slapped by another member.⁹ Mauricio was slapped by another former member with such force that he was knocked to the floor, rendered unconscious, and hospitalized with a skull fracture. The state was unable to charge the former member with hazing, however, because the individual's actions were not intended as an initiation or requirement for membership.¹⁰

¹ Associated Press, *UM fraternity members liable in hazing death*, Herald Tribune (Feb. 7, 2004), <https://www.heraldtribune.com/news/20040207/um-fraternity-members-liable-in-hazing-death> (last visited Mar. 28, 2019).

² *Id.*

³ Ben Montgomery, *Recounting the deadly hazing that destroyed FAMU band's reputation*, Tampa Bay Times (Nov. 11, 2012), <https://www.tampabay.com/news/humaninterest/recounting-the-deadly-hazing-that-destroyed-famu-bands-reputation/1260765> (last visited Mar. 28, 2019).

⁴ *Id.*

⁵ Eric Levenson, *FSU fraternity pledge died 'alone in a room full of people' at party*, CNN (Dec. 21, 2017), <https://www.cnn.com/2017/12/20/us/fsu-fraternity-pledge-death-grand-jury/index.html> (last visited Mar. 28, 2019).

⁶ *Id.*

⁷ *Id.*

⁸ Karl Etters, *911 tape from Andrew Coffey death released*, Tallahassee Democrat (Jan. 30, 2018), <https://www.tallahassee.com/story/news/2018/01/30/911-tapes-andrew-coffey-death-released/1080372001/> (last visited Mar. 28, 2019).

⁹ Antonia Noori Farzan, *Florida State fraternity's 'Scumbag of the Week' hazing tradition led to student's brain damage, lawsuit says*, The Washington Post (Sept. 13, 2018), https://www.washingtonpost.com/news/morning-mix/wp/2018/09/13/florida-state-fraternity-scumbag-of-the-week-hazing-tradition-led-to-students-brain-damage-lawsuit-says/?utm_term=.0a242fdf6784 (last visited Mar. 28, 2019).

¹⁰ *Id.*

Florida Law

Hazing Prohibited

In response to the growing number of increasingly harmful hazing incidents throughout the state, the Legislature criminalized hazing in 2005.¹¹ Public and nonpublic postsecondary educational institutions whose students receive state student financial assistance must adopt a written antihazing policy.¹² Hazing means engaging in any action or situation that:

- Recklessly or intentionally endangers the mental or physical health or safety of a student; and
- Is for the purpose of initiation or admission into or affiliation with a sanctioned organization.¹³

Hazing includes, but is not limited to, any brutality of a physical nature, such as:

- Whipping, beating, or branding;
- Forced calisthenics;
- Exposure to the elements;
- Forced consumption of any food, liquor, drug, or other substance; and
- Other forced activity which could adversely affect a student's physical health or safety.¹⁴

Hazing also includes any activity which subjects a student to extreme mental stress, such as:

- Sleep deprivation;
- Forced exclusion from social contact;
- Forced conduct which could result in extreme embarrassment; or
- Other forced activity which could adversely affect the student's mental health or dignity.¹⁵

A person who intentionally or recklessly hazes another person who is a member of, or an applicant to, any type of student organization when such conduct results in serious bodily injury or death, commits a third degree felony, punishable by up to five years in prison and a \$5,000 fine.¹⁶ A person who intentionally or recklessly hazes another person who is a member of, or an applicant to, any type of student organization when the hazing creates a substantial risk of physical injury or death commits a first degree misdemeanor, punishable by up to one year in county jail and a \$1,000 fine.¹⁷

A sentence imposed for criminal hazing must include a four-hour hazing education course and may also include drug or alcohol probation.¹⁸ A person involved in an act of hazing may still be prosecuted for other offenses resulting from the same activity or conduct.

It is not a defense to a charge of criminal hazing if the:

- Victim consented to the activity;
- Conduct was not part of an official organizational event or otherwise sanctioned or approved by an organization; or
- Conduct was not required to gain membership in an organization.¹⁹

Good Samaritan Act

The Good Samaritan Act, codified in s. 768.13, F.S., provides immunity from civil liability for those who act in good faith to render emergency care and treatment to individuals in need of assistance. This

¹¹ Ch. 2005-146, Laws of Fla.

¹² S. 1006.63(7), F.S.

¹³ S. 1006.63(1), F.S.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Ss. 775.082, 775.083, and 1006.63(2), F.S.

¹⁷ Ss. 775.082, 775.083, and 1006.63(3), F.S.

¹⁸ S. 1006.63(4), F.S.

¹⁹ S. 1006.63(5), F.S.

protection is extended to a person who uses or attempts to use an automated defibrillator device on an individual experiencing a medical emergency, if the individual does not object to its use.²⁰

911 Good Samaritan Act

In response to the increasing number of deaths caused by drug overdose, the Legislature created immunity for persons acting in good faith who seek medical assistance for an individual due to a drug-related overdose in 2012.²¹ As such, a person seeking medical assistance related to a drug-related overdose for himself, herself, or another may not be charged, prosecuted, or penalized for possession of a controlled substance if they are found to be in possession as a result of seeking medical assistance.²²

Effect of Proposed Changes

CS/CS/HB 727 expands the definition of hazing to include conduct committed for the purpose of perpetuating or furthering a tradition or ritual of an organization. The bill broadens the scope of who may be charged with criminal hazing to include individuals who solicit others to commit hazing or individuals actively involved in the planning of hazing. The bill expands the category of individuals who may be victims of hazing to include former members of an organization. The bill expands felony hazing to include conduct resulting in a permanent injury to a victim. As such, a person who intentionally or recklessly solicits another to haze, is actively involved in planning hazing, or hazes another member or former member of, or an applicant to, a student organization, and such conduct results in a permanent injury, serious bodily injury, or death, commits a third degree felony, punishable by up to five years in prison and a \$5,000 fine.

CS/CS/HB 727 provides immunity from criminal prosecution under certain circumstances.

- An individual may not be charged with criminal hazing when he or she:
 - Is present at an event where a person needs immediate medical assistance due to hazing;
 - Is the first person to call 911 or campus security to report the need for medical assistance;
 - Provides his or her name, the address where the medical assistance is needed, and a description of the medical issue to the 911 operator or campus security personnel; and
 - Stays with the individual who needs medical assistance until such medical assistance, law enforcement, or campus security arrives and cooperates with such personnel upon arrival.
- Any individual who provides aid to a hazing victim prior to the arrival of medical assistance, law enforcement, or campus security is immune from criminal prosecution. Aid includes, but is not limited to:
 - Rendering cardiopulmonary resuscitation;
 - Clearing a victim's airway;
 - Utilizing a defibrillator; or
 - Any other assistance rendered in good faith to stabilize or improve a victim's condition while waiting for medical assistance, law enforcement, or campus security to arrive.

The bill incentivizes an individual who is aware of an injury caused by hazing to seek and provide medical assistance for a victim without fear of implicating himself or herself criminally.

The bill provides an effective date of October 1, 2019.

²⁰ S. 768.1325(3), F.S.

²¹ S. 893.21, F.S.

²² *Id.*

B. SECTION DIRECTORY:

Section 1: Amends s. 1006.63, F.S., relating to hazing prohibited.

Section 2: Provides an effective date of October 1, 2019.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill may have an insignificant positive impact on the number of prison beds by expanding the scope of conduct which constitutes hazing and expanding the category of individuals who may be considered victims of hazing. Per the Department of Corrections, there were no felony sentences for hazing in fiscal year 2017-2018.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill may have an insignificant positive impact on the number of jail beds by expanding the scope of conduct which constitutes hazing and expanding the category of individuals who may be considered victims of hazing.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill appears to be exempt from the requirements of Article VII, Section 18, of the Florida Constitution because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 12, 2019, the Criminal Justice Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment changed the effective date of the bill to October 1, 2019.

On March 28, 2019, the Judiciary Committee adopted an amendment and reported the bill favorably as a committee substitute. The amendment expanded criminal immunity for a person who provides aids to a hazing victim prior to the arrival of medical assistance, law enforcement, or campus security. The amendment defined "aid" to include, but not be limited to:

- Rendering cardiopulmonary resuscitation;
- Clearing a victim's airway;
- Utilizing a defibrillator; or
- Any other assistance rendered in good faith to stabilize or improve a victim's condition while waiting for medical assistance, law enforcement, or campus security to arrive.

This analysis is drafted to the committee substitute as passed by the Judiciary Committee.