

**CHAPTER 1041**

**S.B. No. 24**

**AN ACT**

relating to offenses relating to hazing at or in connection with an educational institution; providing criminal penalties.

*Be it enacted by the Legislature of the State of Texas:*

**SECTION 1.** Sections 4.01 through 4.50, Education Code, as amended, are designated as Subchapter A, Chapter 4, Education Code, and that chapter is amended by adding a subchapter designation immediately after the chapter heading to read as follows:

**3503**

## SUBCHAPTER A. GENERAL PROVISIONS

SECTION 2. Chapter 4, Education Code, as amended, is amended by adding Subchapter B to read as follows:

## SUBCHAPTER B. HAZING

Sec. 4.51. *DEFINITIONS. In this subchapter:*

(1) *"Educational institution" includes a public or private:*

(A) *high school; or*

(B) *college, university, or other postsecondary educational establishment.*

(2) *"Pledge" means any person who has been accepted by, is considering an offer of membership from, or is in the process of qualifying for membership in an organization.*

(3) *"Pledging" means any action or activity related to becoming a member of an organization.*

(4) *"Student" means any person who:*

(A) *is registered in or in attendance at an educational institution;*

(B) *has been accepted for admission at the educational institution where the hazing incident occurs; or*

(C) *intends to attend an educational institution during any of its regular sessions after a period of scheduled vacation.*

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

(6) *"Hazing" means any intentional, knowing, or reckless act, occurring on or off the campus of an educational institution, by one person alone or acting with others, directed against a student, that endangers the mental or physical health or safety of a student for the purpose of pledging, being initiated into, affiliating with, holding office in, or maintaining membership in any organization whose members are or include students at an educational institution. The term includes but is not limited to:*

(A) *any type of physical brutality, such as whipping, beating, striking, branding, electronic shocking, placing of a harmful substance on the body, or similar activity;*

(B) *any type of physical activity, such as sleep deprivation, exposure to the elements, confinement in a small space, calisthenics, or other activity that subjects the student to an unreasonable risk of harm or that adversely affects the mental or physical health or safety of the student;*

(C) *any activity involving consumption of a food, liquid, alcoholic beverage, liquor, drug, or other substance which subjects the student to an unreasonable risk of harm or which adversely affects the mental or physical health or safety of the student;*

(D) *any activity that intimidates or threatens the student with ostracism, that subjects the student to extreme mental stress, shame, or humiliation, or that adversely affects the mental health or dignity of the student or discourages the student from entering or remaining registered in an educational institution, or that may reasonably be expected to cause a student to leave the organization or the institution rather than submit to acts described in this subsection;*

(E) *any activity that induces, causes, or requires the student to perform a duty or task which involves a violation of the Penal Code.*

Sec. 4.52. *PERSONAL HAZING OFFENSE. (a) A person commits an offense if the person:*

(1) *engages in hazing;*

(2) solicits, encourages, directs, aids, or attempts to aid another in engaging in hazing;

(3) intentionally, knowingly, or recklessly permits hazing to occur; or

(4) has firsthand knowledge of the planning of a specific hazing incident involving a student in an educational institution, or firsthand knowledge that a specific hazing incident has occurred, and knowingly fails to report said knowledge in writing to the dean of students or other appropriate official of the institution.

(b) The offense of failing to report is a misdemeanor punishable by a fine not to exceed \$1,000, confinement in county jail for not more than 180 days, or both such fine and confinement.

(c) Any other offense under this section which does not cause serious bodily injury to another is a misdemeanor punishable by a fine of not less than \$500 nor more than \$1,000, confinement in county jail for not less than 90 days nor more than 180 days, or both such fine and confinement.

(d) Any other offense under this section which causes serious bodily injury to another is a misdemeanor punishable by a fine of not less than \$1,000 nor more than \$5,000, confinement in county jail for not less than 180 days nor more than one year, or both such fine and confinement.

(e) Any other offense under this section which causes the death of another is a misdemeanor punishable by a fine of not less than \$5,000 nor more than \$10,000, confinement in county jail for not less than one year nor more than two years, or both such fine and confinement.

(f) Except when an offense causes the death of a student, in sentencing a person convicted of an offense under this section, the court may require the person to perform community service, subject to the same conditions imposed on community service probationers by Subdivision (1), Subsection (e), and Subsections (c), (d), (g), and (h) of Section 10A, Article 42.12, Code of Criminal Procedure, for an appropriate period of time in lieu of confinement in county jail or in lieu of a part of the time the person is sentenced to confinement in county jail.

**Sec. 4.53. ORGANIZATION HAZING OFFENSE.** (a) An organization commits an offense if the organization condones or encourages hazing or if an officer or any combination of members, pledges, or alumni of the organization commits or assists in the commission of hazing.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$5,000 nor more than \$10,000, or if a court finds that the offense caused personal injury, property damage, or other loss, the court may sentence the organization to pay a fine of not less than \$5,000 nor more than double the amount lost or expenses incurred because of such injury, damage, or loss.

**Sec. 4.54. CONSENT NOT A DEFENSE.** It is not a defense to prosecution of an offense under this subchapter that the person against whom the hazing was directed consented to or acquiesced in the hazing activity.

**Sec. 4.55. IMMUNITY FROM PROSECUTION AVAILABLE.** In the prosecution of an offense under this subchapter, the court may grant immunity from prosecution for the offense to each person who is subpoenaed to testify for the prosecution and who does testify for the prosecution. Any person reporting a specific hazing incident involving a student in an educational institution to the dean of students or other appropriate official of the institution is immune from liability, civil or criminal, that might otherwise be incurred or imposed as a result of the report. Immunity extends to participation in any judicial proceeding resulting from the report. A person reporting in bad faith or with malice is not protected by this section.

**Sec. 4.56. OFFENSES IN ADDITION TO OTHER PENAL PROVISIONS.** This subchapter does not affect or repeal any penal law of this state. Nothing in this subchapter shall limit or affect the right of an educational institution to enforce its own penalties against hazing.

*Sec. 4.57. REPORTING BY MEDICAL AUTHORITIES. Treatment of a student who may have been subjected to hazing activities may be reported to police or other law enforcement officials, and the doctor or medical practitioner so reporting shall be immune from civil suit or other liability that might otherwise be imposed or incurred as a result of the report, unless the report is made in bad faith or with malice.*

*Sec. 4.58. PUBLICATION OF SUBCHAPTER. (a) Each postsecondary educational institution shall cause to be published or distributed to each student during the first three weeks of each semester a summary of the provisions of this subchapter.*

*(b) The institution shall publish or distribute in the same manner a list of organizations that have been disciplined for hazing or convicted for hazing on or off the campus of the institution during the previous three years.*

*(c) If the institution publishes a general catalogue, student handbook, or similar publication, it shall publish a summary of the provisions of this subchapter in each edition of that catalogue, handbook, or similar publication.*

SECTION 3. Section 4.19, Education Code, is repealed.

SECTION 4. If any provision of this Act or its application to any person, entity, or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

SECTION 5. This Act takes effect September 1, 1987, and applies only to the punishment for an offense committed under Subchapter B, Chapter 4, Education Code, on or after that date. An offense committed under Section 4.19, Education Code, before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on March 11, 1987, by a viva-voce vote; May 11, 1987, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 12, 1987, House granted request of the Senate; May 27, 1987, Senate adopted Conference Committee Report by a viva-voce vote. Passed the House, with amendments, on May 7, 1987, by a non-record vote; May 12, 1987, House granted request of the Senate for appointment of Conference Committee; May 25, 1987, House adopted Conference Committee Report by a non-record vote.

Approved June 20, 1987.

Effective Sept. 1, 1987.