

**SENATE APPROPRIATIONS COMMITTEE  
FISCAL NOTE**

**BILL NO.** Senate Bill 1090

**PRINTER NO.** 1583

**AMOUNT**

No Fiscal Impact

**FUND**

General Fund

**DATE INTRODUCED**

March 23, 2018

**PRIME SPONSOR**

Senator Corman

**DESCRIPTION AND PURPOSE OF BILL**

Senate Bill 1090, Printer's Number 1583, amends Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes to enact the "Timothy J. Piazza Antihazing Law."

This legislation amends Title 18 by adding a new Chapter 28 (Antihazing), which provides for several new criminal offenses and penalties related to hazing, as indicated below.

§2802. Hazing – Intentionally, knowingly or recklessly, for the purpose of initiating, admitting or affiliating a minor or student into or with an organization, or for the purpose of continuing or enhancing a minor or student's membership or status in an organization, causes a minor or student to do any of the following:

- 1) Violate federal or state law;
- 2) Consume any food, liquid, liquor, drug or other substance which subjects the student to a risk of emotional or physical harm;
- 3) Endure brutality of a physical nature, including whipping, beating, branding, calisthenics or exposure to the elements;
- 4) Endure brutality of a mental nature, including activity adversely affecting the mental health or dignity of the individual, sleep deprivation, exclusion from social contact or conduct that could result in extreme embarrassment; or
- 5) Endure any other forced activity which could adversely affect the health and safety of the individual.

Hazing is graded as a summary offense, except if it results in or may result in bodily injury to the minor or student, when it then becomes a misdemeanor of the third degree.

§2803. Aggravated hazing - a violation of §2802 (relating to hazing) that results in serious bodily injury or death to the minor or student. A violation of this offense shall be a felony of the third degree.

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§2804. Organizational hazing - An organization commits the offense of organizational hazing if the organization intentionally, knowingly or recklessly promotes or facilitates a violation of §2802 (relating to hazing) or §2803 (relating to aggravated hazing). Organizational hazing related to a violation of §2802 (relating to hazing) shall be a misdemeanor of the third degree. If the offense is committed relating to a violation of §2803 (relating to aggravated hazing), it shall be a felony of the third degree.

In addition to any other sentence imposed, if an organization commits the offense of organizational hazing, the organization shall be subject to such other relief as the court deems equitable, including forfeiture of assets as provided for in this chapter.

Organization is defined as any of the following:

- 1) A fraternity, sorority, association, corporation, order, society, corps, club or service, social or similar group, whose members are primarily students or alumni of the organization.
- 2) A national or international organization with which a fraternity or sorority or other organization as enumerated under paragraph 1 is affiliated.

§2805. Institutional hazing - An institution which intentionally, knowingly or recklessly promotes or facilitates a violation of §2802 (relating to hazing) or §2803 (relating to aggravated hazing) shall be subject to a fine of not more than \$5,000 for each violation of §2802 and a fine of not more than \$15,000 for each violation of §2803.

“Institution of higher education” or “institution” is defined as an institution located within this Commonwealth authorized to grant an associate or higher academic degree.

§2806. Defenses prohibited.

It shall not be a defense to any offense under this chapter that the consent of the minor or student was sought or obtained, or the conduct was sanctioned or approved by the institution, secondary school or organization.

§2807. Forfeiture.

Upon conviction of a defendant under section 2804 (relating to organizational hazing) the court may, in addition to any other sentence authorized under law, direct the defendant to forfeit property which was involved in the violation for which the defendant was convicted.

§2808. Enforcement by institution and secondary school.

Each institution and each governing board of a secondary school shall adopt a written policy against hazing and, pursuant to that policy, shall adopt rules prohibiting students or other persons associated with an organization operating under the sanction of, or recognized as an organization by the institution or secondary school, from engaging in hazing.

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Each institution and each governing board of a secondary school shall provide a program for the enforcement of the policy. Penalties may include any of the following:

- 1) Imposition of fines;
- 2) Withholding of diplomas or transcripts pending compliance with the rules or payment of fines;
- 3) Rescission of permission for the organization to operate on campus or school property or to otherwise operate under the sanction or recognition of the institution or secondary school; or
- 4) Imposition of probation, suspension, dismissal or expulsion.

A penalty imposed under this section shall be in addition to a penalty imposed for violation of an offense under this chapter or the criminal laws of this Commonwealth.

### §2809. Institutional reports.

Beginning with the 2018-2019 academic year and each academic year thereafter, an institution shall maintain a report of all violations of the institution's antihazing policy or federal or state laws related to hazing that are reported to campus authorities or local law enforcement.

The report shall include all of the following:

- 1) Name of the organization;
- 2) Date when the organization was charged with misconduct;
- 3) Dates on which the institution issued any citations;
- 4) Date the institution initiated the institution's investigation;
- 5) A general description of the incident, the findings and, if applicable, sanctions and charges;
- 6) Date on which the matter was resolved; and
- 7) Any additional information related to findings, if available.

An initial report shall include information concerning violations that have been reported to campus authorities or local law enforcement for the five consecutive years prior to the effective date of this section to the extent the institution has retained information concerning the violations. The report shall not include the personal identifying information of an individual. The initial report shall be posted on the institution's Internet website by January 15, 2019. Institutions shall update the report biannually on January 1 and August 1. Reports shall be retained for five (5) years.

### §2810. Safe harbor.

An individual shall not be prosecuted for an offense under this chapter or §6308(a) (relating to purchase, consumption, possession or transportation of liquor or malt or brewed beverages) if the individual can establish all of the following:

- 1) The individual placed a 911 call or contacted campus security, police or emergency services, based on reasonable belief another individual was in need of immediate medical attention to prevent death or serious bodily injury;

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- 2) The individual reasonably believed the individual was the first individual to make a 911 call or contact campus security, police or emergency services and report that an individual needed immediate medical attention to prevent death or serious bodily injury;
- 3) The individual provided the individual's own name to the 911 operator or equivalent campus security officer, police or emergency services personnel; and
- 4) The individual remained with the individual needing medical assistance until a campus security officer, police or emergency services personnel arrived and the need for the individual's presence had ended.

An individual needing medical attention may not be prosecuted for an offense under this chapter or §6308(a) if another individual against whom probable cause exists to charge an offense under this chapter or §6308(a) reported the incident and remained with the individual needing medical attention and the other individual qualifies for a safe harbor under this section.

The safe harbors described under this section shall be limited as follows:

- (1) This section shall not interfere with or prevent the investigation, arrest, charging or prosecution of an individual for a crime other than an offense under this chapter or §6308(a) (relating to investigation by police officers);
- (2) This section shall not bar the admissibility of evidence in connection with the investigation and prosecution for a crime other than an offense under this chapter or §6308(a) (relating to investigation by police officers); and
- (3) This section shall not bar the admissibility of evidence in connection with the investigation and prosecution of a crime with regard to another defendant who does not independently qualify for a safe harbor under this section.

§5803. Asset forfeiture of Title 42 (Judiciary and Judicial Procedure) is amended to allow for forfeitures under §2807 (relating to Forfeiture) of Title 18 (Crimes and Offenses)

The act of December 15, 1986 (P.L.1595, No.175), known as the Antihazing Law, is repealed in order to effectuate the addition of the new Chapter 28 (Antihazing) under Title 18 (Crimes and Offenses).

This act shall take effect in 30 days.

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### **FISCAL IMPACT:**

According to the Pennsylvania Commission on Sentencing, there was only one (1) prosecution under the third degree misdemeanor anti-hazing statute in Title 24 (Education) during the past ten (10) years. That conviction resulted in the defendant receiving six (6) months' probation. Additionally, there were thirteen (13) convictions under this statute in 2017, with all defendants being sentenced to probation. The low number of convictions under the anti-hazing statute is the result of most individuals or organizations being charged with hazing-related activities under a substantive offense (e.g., furnishing alcohol to minors, recklessly endangering, etc.).

Because of the higher profile of hazing related incidences and because this legislation provides better targeting of the elements and the higher penalties, there may be a small increase in summary prosecutions for these activities, although it is assumed that enactment of this legislation will deter most individuals and organizations from participating in the more serious hazing activities, such as aggravated hazing, organizational hazing and institutional hazing.

Therefore, enactment of this legislation will have no adverse fiscal impact on Commonwealth funds.