

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1090 Session of 2018

INTRODUCED BY CORMAN, GORDNER, LANGERHOLC, YAW, MENSCH, SABATINA, BAKER, BLAKE, RESCHENTHALER, SCAVELLO, KILLION, MARTIN, RAFFERTY, BARTOLOTTA, REGAN, TOMLINSON, SCHWANK, VOGEL, YUDICHAK, BREWSTER, HUGHES, FOLMER, COSTA AND VULAKOVICH, MARCH 23, 2018

AS AMENDED ON THIRD CONSIDERATION, APRIL 17, 2018

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and
2 Judicial Procedure) of the Pennsylvania Consolidated
3 Statutes, in offenses involving danger to the person,
4 providing for antihazing and prescribing penalties; in
5 forfeiture of assets, further providing for asset forfeiture;
6 and making a related repeal.

7 This act shall be referred to as the "Timothy J. Piazza
8 Antihazing Law."

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. Title 18 of the Pennsylvania Consolidated
12 Statutes is amended by adding a chapter to read:

13 CHAPTER 28

14 ANTIHAZING

15 Sec.

16 2801. Definitions.

17 2802. Hazing.

18 2803. Aggravated hazing.

1 2804. Organizational hazing.

2 2805. Institutional hazing.

3 2806. Defenses prohibited.

4 2807. Forfeiture.

5 2808. Enforcement by institution and secondary school.

6 2809. Institutional reports.

7 2810. Safe harbor.

8 § 2801. Definitions.

9 The following words and phrases when used in this chapter
10 shall have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "911 call." A transmission of information via a
13 telecommunications device to a public safety answering point for
14 the initial reporting of police, fire, medical or other
15 emergency situations.

16 "ALCOHOLIC LIQUID." A SUBSTANCE CONTAINING LIQUOR, SPIRIT, <--
17 WINE, BEER, MALT OR BREWED BEVERAGE OR ANY COMBINATION THEREOF.

18 "Bodily injury." The term has the same meaning as given to
19 that term in section 2301 (relating to definitions).

20 "Campus security officer." An employee of an institution of
21 higher education charged with maintaining the safety and
22 security of the property of the institution and the individuals
23 on the property.

24 "Emergency services personnel." Individuals, including a
25 trained volunteer or a member of the armed forces of the United
26 States or the National Guard, whose official or assigned
27 responsibilities include performing or directly supporting the
28 performance of emergency medical and rescue services or
29 firefighting.

30 "Institution of higher education" or "institution." An- <--

1 ~~institution located within this Commonwealth authorized to grant~~
2 ~~an associate or higher academic degree.~~ A DEGREE-GRANTING
3 INSTITUTION AUTHORIZED TO OPERATE IN THIS COMMONWEALTH OR AN
4 INSTITUTION LICENSED BY THE STATE BOARD OF PRIVATE LICENSED
5 SCHOOLS.

6 "Law enforcement officer." An individual who, by virtue of
7 the individual's office or public employment, is vested by law
8 with a duty to maintain public order or to make arrests for
9 offenses, whether that duty extends to all offenses or is
10 limited to specific offenses, or an individual on active State
11 duty under 51 Pa.C.S. § 508 (relating to active duty for
12 emergency).

13 "Minor." An individual younger than 18 years of age.

14 "Organization." Any of the following:

15 (1) A fraternity, sorority, association, corporation,
16 order, society, corps, club or service, social or similar
17 group, whose members are primarily students or alumni of the
18 organization.

19 (2) A national or international organization with which
20 a fraternity or sorority or other organization as enumerated
21 under paragraph (1) is affiliated.

22 "Secondary school." A public or private school within this
23 Commonwealth that provides instruction in grades 7 through 12 or
24 a combination of grades 7 through 12.

25 "Serious bodily injury." The term shall have the same
26 meaning as given to that term in section 2301.

27 "Student." An individual who attends or has applied to
28 attend or has been admitted to an institution or secondary
29 school.

30 § 2802. Hazing.

1 (a) Offense defined.--A person commits the offense of hazing
2 if the person intentionally, knowingly or recklessly, for the
3 purpose of initiating, admitting or affiliating a minor or
4 student into or with an organization, or for the purpose of
5 continuing or enhancing a minor or student's membership or
6 status in an organization, causes a minor or student to do any
7 of the following:

8 (1) Violate Federal or State law.

9 (2) Consume any food, liquid, ~~liquor~~ ALCOHOLIC LIQUID, <--
10 drug or other substance which subjects the MINOR OR student <--
11 to a risk of emotional or physical harm.

12 (3) Endure brutality of a physical nature, including
13 whipping, beating, branding, calisthenics or exposure to the
14 elements.

15 (4) Endure brutality of a mental nature, including
16 activity adversely affecting the mental health or dignity of
17 the individual, sleep deprivation, exclusion from social
18 contact or conduct that could result in extreme
19 embarrassment.

20 (5) Endure any other forced activity which could
21 adversely affect the health and safety of the individual.

22 (b) Grading.--

23 (1) Except as provided under paragraph (2), hazing is a
24 summary offense.

25 (2) Hazing shall be a misdemeanor of the third degree if
26 it results in or may result in bodily injury to the minor or
27 student.

28 (c) Limitation.--Hazing shall not include reasonable and
29 customary athletic or military training, contests, competitions
30 or events.

1 § 2803. Aggravated hazing.

2 (a) Offense defined.--A person commits the offense of
3 aggravated hazing if the person commits a violation of section
4 2802 (relating to hazing) that results in serious bodily injury
5 or death to the minor or student.

6 (b) Grading.--Aggravated hazing shall be a felony of the
7 third degree.

8 § 2804. Organizational hazing.

9 (a) Offense defined.--An organization commits the offense of
10 organizational hazing if the organization intentionally,
11 knowingly or recklessly promotes or facilitates a violation of
12 section 2802 (relating to hazing) or 2803 (relating to
13 aggravated hazing).

14 (b) Grading.-

15 (1) Organizational hazing shall be a misdemeanor of the
16 third degree if the organization intentionally, knowingly or
17 recklessly promotes or facilitates a violation of section
18 2802.

19 (2) Organizational hazing shall be a felony of the third
20 degree if the organization intentionally, knowingly or
21 recklessly promotes or facilitates a violation of section
22 2803.

23 (c) Penalties.--In addition to any other sentence imposed,
24 if an organization commits the offense of organizational hazing,
25 the organization shall be subject to such other relief as the
26 court deems equitable, including forfeiture of assets as
27 provided under this chapter.

28 § 2805. Institutional hazing.

29 An institution which intentionally, knowingly or recklessly
30 promotes or facilitates a violation of section 2802 (relating to

1 hazing) or 2803 (relating to aggravated hazing) shall be subject
2 to any of the following penalties:

3 (1) A fine of not more than \$5,000 for each violation of
4 section 2802.

5 (2) A fine of not more than \$15,000 for each violation
6 of section 2803.

7 § 2806. Defenses prohibited.

8 It shall not be a defense to any offense under this chapter
9 that any of the following apply:

10 (1) The consent of the minor or student was sought or
11 obtained.

12 (2) The conduct was sanctioned or approved by the
13 institution, secondary school or organization.

14 § 2807. Forfeiture.

15 Upon conviction of a defendant under section 2804 (relating
16 to organizational hazing) the court may, in addition to any
17 other sentence authorized under law, direct the defendant to
18 forfeit property which was involved in the violation for which
19 the defendant was convicted. The forfeiture shall be conducted
20 in accordance with 42 Pa.C.S. §§ 5803 (relating to asset
21 forfeiture), 5805 (relating to forfeiture procedure), 5806
22 (relating to motion for return of property), 5807 (relating to
23 restrictions on use), 5807.1 (relating to prohibition on
24 adoptive seizures) and 5808 (relating to exceptions).

25 § 2808. Enforcement by institution and secondary school.

26 (a) Antihazing policy.--

27 (1) Each institution and each governing board of a
28 secondary school shall adopt a written policy against hazing
29 and, pursuant to that policy, shall adopt rules prohibiting
30 students or other persons associated with an organization

1 operating under the sanction of or recognized as an
2 organization by the institution or secondary school from
3 engaging in hazing or an offense under this chapter.

4 (2) Each institution and secondary school shall provide
5 a copy of the policy, including the institution's or
6 secondary school's rules, penalties and program of
7 enforcement to each organization within the institution or
8 secondary school.

9 (3) Each institution and secondary school shall post the
10 policy on the institution's or the secondary school's
11 publicly accessible Internet website.

12 (b) Enforcement and penalties.--

13 (1) Each institution and each governing board of a
14 secondary school shall provide a program for the enforcement
15 of the policy required under subsection (a) and shall adopt
16 appropriate penalties for violations of the policy to be
17 administered by the individual or agency at the institution
18 or secondary school responsible for the sanctioning or
19 recognition of the organizations covered by the policy.

20 (2) Penalties under paragraph (1) may include any of the
21 following:

22 (i) The imposition of fines.

23 (ii) The withholding of diplomas or transcripts
24 pending compliance with the rules or payment of fines.

25 (iii) The rescission of permission for the
26 organization to operate on campus or school property or
27 to otherwise operate under the sanction or recognition of
28 the institution or secondary school.

29 (iv) The imposition of probation, suspension,
30 dismissal or expulsion.

1 (3) A penalty imposed under this section shall be in
2 addition to a penalty imposed for violation of an offense
3 under this chapter or the criminal laws of this Commonwealth
4 or for violation of any other institutional or secondary
5 school rule to which the violator may be subject.

6 (4) A policy adopted under this section shall apply to
7 each act conducted on or off campus or school property if the
8 acts are deemed to constitute hazing or any offense under
9 this chapter.

10 § 2809. Institutional reports.

11 (a) Maintenance.--Beginning with the 2018-2019 academic year
12 and each academic year thereafter, an institution shall maintain
13 a report of all violations of the institution's antihazing
14 policy or Federal or State laws related to hazing that are
15 reported to campus authorities or local law enforcement.

16 (b) Contents.--The report shall include all of the
17 following:

18 (1) The name of the organization.

19 (2) The date when the organization was charged with
20 misconduct.

21 (3) The dates on which the institution issued any
22 citations.

23 (4) The date the institution initiated the institution's
24 investigation.

25 (5) A general description of the incident, the findings
26 and, if applicable, sanctions and charges.

27 (6) The date on which the matter was resolved.

28 (7) Additional information related to findings, if
29 available.

30 (c) Initial report.--The initial report shall include

1 information concerning violations that have been reported to
2 campus authorities or local law enforcement for the five
3 consecutive years prior to the effective date of this section to
4 the extent the institution has retained information concerning
5 the violations.

6 (d) Personal identifying information.--The report shall not
7 include the personal identifying information of an individual.

8 (e) Time.--An institution shall post an initial report
9 required under this section on its publicly accessible Internet
10 website by January 15, 2019.

11 (f) Update.--An institution shall update the report
12 biannually on January 1 and August 1 and shall post the updated
13 report on its publicly accessible Internet website.

14 (g) Duration.--An institution shall retain reports for five
15 years.

16 § 2810. Safe harbor.

17 (a) Individual seeking medical attention for another.--An
18 individual shall not be prosecuted for an offense under this
19 chapter or section 6308(a) (relating to purchase, consumption,
20 possession or transportation of liquor or malt or brewed
21 beverages) if the individual can establish all of the following:

22 (1) A law enforcement officer first became aware of the
23 individual's violation of this chapter or section 6308(a)
24 because the individual placed a 911 call or contacted campus
25 security, police or emergency services, based on reasonable
26 belief another individual was in need of immediate medical
27 attention to prevent death or serious bodily injury.

28 (2) The individual reasonably believed the individual
29 was the first individual to make a 911 call or contact campus
30 security, police or emergency services and report that an

1 individual needed immediate medical attention to prevent
2 death or serious bodily injury.

3 (3) The individual provided the individual's own name to
4 the 911 operator or equivalent campus security officer,
5 police or emergency services personnel.

6 (4) The individual remained with the individual needing
7 medical assistance until a campus security officer, police or
8 emergency services personnel arrived and the need for the
9 individual's presence had ended.

10 (b) Individual needing medical attention.--An individual
11 needing medical attention may not be prosecuted for an offense
12 under this chapter or section 6308(a) if another individual
13 against whom probable cause exists to charge an offense under
14 this chapter or section 6308(a) reported the incident and
15 remained with the individual needing medical attention and the
16 other individual qualifies for a safe harbor under this section.

17 (c) Limitations.--The safe harbors described under this
18 section shall be limited as follows:

19 (1) This section shall not interfere with or prevent the
20 investigation, arrest, charging or prosecution of an
21 individual for a crime other than an offense under this
22 chapter or section 6308(a).

23 (2) This section shall not bar the admissibility of
24 evidence in connection with the investigation and prosecution
25 for a crime other than an offense under this chapter or
26 section 6308(a).

27 (3) This section shall not bar the admissibility of
28 evidence in connection with the investigation and prosecution
29 of a crime with regard to another defendant who does not
30 independently qualify for a safe harbor under this section.

1 Section 2. Section 5803(a) of Title 42 is amended by adding
2 a paragraph to read:

3 § 5803. Asset forfeiture.

4 (a) Applicability.--Notwithstanding any law to the contrary,
5 this section shall apply to forfeitures conducted under the
6 following:

7 * * *

8 (3.1) 18 Pa.C.S. § ~~2803~~ 2804 (relating to ~~aggravated~~ <--
9 ORGANIZATIONAL hazing). <--

10 * * *

11 Section 3. Repeals are as follows:

12 (1) The General Assembly finds that the repeal under
13 paragraph (2) is necessary to effectuate the addition of 18
14 Pa.C.S. Ch. 28.

15 (2) The act of December 15, 1986 (P.L.1595, No.175),
16 known as the Antihazing Law, is repealed.

17 Section 4. The addition of 18 Pa.C.S. Ch. 28 is a
18 continuation of the act of December 15, 1986 (P.L.1595, No.175),
19 known as the Antihazing Law. Except as otherwise provided in 18
20 Pa.C.S. Ch. 28, all activities initiated under the Antihazing
21 Law shall continue and remain in full force and effect and may
22 be completed under 18 Pa.C.S. Ch. 28. Orders, regulations, rules
23 and decisions which were made under the Antihazing Law and which
24 are in effect on the effective date of this section shall remain
25 in full force and effect until revoked, vacated or modified
26 under 18 Pa.C.S. Ch. 28. Prosecutions and policies entered into
27 under the Antihazing Law are not affected nor impaired by the
28 repeal of the Antihazing Law.

29 Section 5. The addition of 18 Pa.C.S. Ch. 28 and 42 Pa.C.S.
30 § 5803(a) (3.1) shall apply to causes of action which accrue on

1 or after the effective date of this section.

2 Section 6. This act shall take effect in 30 days.