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Chapter 1371

S.B. No. 38

AN ACT

relating to the offense of hazing.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 37.151(5) and (6), Education Code, are amended to read as follows:

(5) "Organization" means a fraternity, sorority, association, corporation, order, society, corps, club, or student government, a band or musical group or an academic, athletic, cheerleading, or dance team, including any group or team that participates in National Collegiate Athletic Association competition, or a service, social, or similar group, whose members are primarily students.

(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 an organization if the act:

(A) is [~~The term includes:~~

~~(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) involves [~~any type of physical activity, such~~

1 ~~as~~] sleep deprivation, exposure to the elements, confinement in a
2 small space, calisthenics, or other similar activity that subjects
3 the student to an unreasonable risk of harm or that adversely
4 affects the mental or physical health or safety of the student;

5 (C) involves [~~any activity involving~~]
6 consumption of a food, liquid, alcoholic beverage, liquor, drug, or
7 other substance, other than as described by Paragraph (E), that
8 subjects the student to an unreasonable risk of harm or that
9 adversely affects the mental or physical health or safety of the
10 student;

11 (D) is [~~any activity that intimidates or~~
12 ~~threatens the student with ostracism, that subjects the student to~~
13 ~~extreme mental stress, shame, or humiliation, that adversely~~
14 ~~affects the mental health or dignity of the student or discourages~~
15 ~~the student from entering or remaining registered in an educational~~
16 ~~institution, or that may reasonably be expected to cause a student~~
17 ~~to leave the organization or the institution rather than submit to~~
18 ~~acts described in this subdivision, and~~

19 [~~(E)~~] any activity that induces, causes, or
20 requires the student to perform a duty or task that involves a
21 violation of the Penal Code; or

22 (E) involves coercing, as defined by Section
23 1.07, Penal Code, the student to consume:

24 (i) a drug; or

25 (ii) an alcoholic beverage or liquor in an
26 amount that would lead a reasonable person to believe that the
27 student is intoxicated, as defined by Section 49.01, Penal Code.

1 SECTION 2. Section 37.155, Education Code, is amended to
2 read as follows:

3 Sec. 37.155. IMMUNITY FROM PROSECUTION OR CIVIL LIABILITY
4 AVAILABLE. (a) In the prosecution of an offense under this
5 subchapter, the court may grant immunity from prosecution for the
6 offense to each person who is subpoenaed to testify for the
7 prosecution and who does testify for the prosecution.

8 (b) Any person who voluntarily reports [~~reporting~~] a
9 specific hazing incident involving a student in an educational
10 institution to the dean of students or other appropriate official
11 of the institution is immune from civil or criminal liability that
12 might otherwise be incurred or imposed as a result of the reported
13 hazing incident if the person:

14 (1) reports the incident before being contacted by the
15 institution concerning the incident or otherwise being included in
16 the institution's investigation of the incident; and

17 (2) as determined by the dean of students or other
18 appropriate official of the institution designated by the
19 institution, cooperates in good faith throughout any institutional
20 process regarding the incident [~~report~~].

21 (c) Immunity under Subsection (b) extends to participation
22 in any judicial proceeding resulting from the report.

23 (d) A person is not immune under Subsection (b) if the
24 person:

25 (1) reports the person's own act of hazing; or

26 (2) reports an incident of hazing [~~reporting~~] in bad
27 faith or with malice [~~is not protected by this section~~].

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1 SECTION 3. Subchapter F, Chapter 37, Education Code, is
2 amended by adding Section 37.158 to read as follows:

3 Sec. 37.158. VENUE. (a) In this section, "prosecuting
4 attorney" means a county attorney, district attorney, or criminal
5 district attorney.

6 (b) An offense under this subchapter may be prosecuted:

7 (1) in any county in which the offense may be
8 prosecuted under other law; or

9 (2) if the consent required by Subsection (c) is
10 provided, in a county, other than a county described by Subdivision
11 (1), in which is located the educational institution campus at
12 which a victim of the offense is enrolled.

13 (c) An offense under this subchapter may be prosecuted in a
14 county described by Subsection (b)(2) only with the written consent
15 of a prosecuting attorney of a county described by Subsection
16 (b)(1) who has authority to prosecute an offense under this
17 subchapter.

18 SECTION 4. Section 51.936, Education Code, is amended by
19 amending Subsection (c) and adding Subsections (c-1) and (c-2) to
20 read as follows:

21 (c) Not later than the 14th day before the first class day of
22 each fall or spring semester, each [Each] postsecondary educational
23 institution shall distribute to each student enrolled at the
24 institution [during the first three weeks of each semester]:

25 (1) a summary of the provisions of Subchapter F,
26 Chapter 37; and

27 (2) a copy of, or an electronic link to a copy of, the

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1 report required under Subsection (c-1) [~~list of organizations that~~
2 ~~have been disciplined for hazing or convicted for hazing on or off~~
3 ~~the campus of the institution during the preceding three years]~~.

4 (c-1) Each postsecondary educational institution shall
5 develop and post in a prominent location on the institution's
6 Internet website a report on hazing committed on or off campus by an
7 organization registered with or recognized by the institution. The
8 report:

9 (1) must include information regarding each
10 disciplinary action taken by the institution against an
11 organization for hazing, and each conviction of hazing under
12 Section 37.153 by an organization, during the three years preceding
13 the date on which the report is issued or updated, including:

14 (A) the name of the organization disciplined or
15 convicted;

16 (B) the date on which the incident occurred or
17 the citation was issued, if applicable;

18 (C) the date on which the institution's
19 investigation into the incident, if any, was initiated;

20 (D) a general description of:

21 (i) the incident;

22 (ii) the violations of the institution's
23 code of conduct or the criminal charges, as applicable;

24 (iii) the findings of the institution or
25 court; and

26 (iv) any sanctions imposed by the
27 institution, or any fines imposed by the court, on the

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1 organization; and

2 (E) the date on which the institution's
3 disciplinary process was resolved or on which the conviction became
4 final;

5 (2) must be updated to include information regarding
6 each disciplinary process or conviction not later than the 30th day
7 after the date on which the disciplinary process is resolved or the
8 conviction becomes final, as applicable; and

9 (3) may not include personally identifiable student
10 information and must comply with the Family Educational Rights and
11 Privacy Act of 1974 (20 U.S.C. Section 1232g).

12 (c-2) Each postsecondary educational institution shall
13 provide to each student who attends the institution's student
14 orientation a notice regarding the nature and availability of the
15 report required under Subsection (c-1), including the report's
16 Internet website address.

17 SECTION 5. The change in law made by this Act applies only
18 to an offense committed on or after the effective date of this Act.
19 An offense committed before the effective date of this Act is
20 governed by the law in effect when the offense was committed, and
21 the former law is continued in effect for that purpose. For
22 purposes of this section, an offense was committed before the
23 effective date of this Act if any element of the offense was
24 committed before that date.

25 SECTION 6. Section 37.155, Education Code, as amended by
26 this Act, applies only to a civil cause of action that accrues on or
27 after the effective date of this Act. An action that accrued before

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1 the effective date of this Act is governed by the law in effect at
2 the time the action accrued, and that law is continued in effect for
3 that purpose.

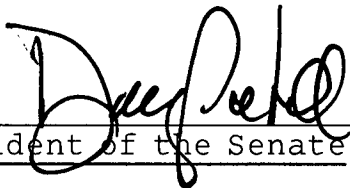
4 SECTION 7. Section 51.936(c), Education Code, as amended by
5 this Act, and Section 51.936(c-2), Education Code, as added by this
6 Act, apply beginning with the 2020 spring semester.

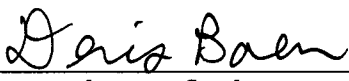
7 SECTION 8. Not later than January 1, 2020, each
8 postsecondary educational institution shall develop and post on the
9 institution's Internet website the report required under Section
10 51.936(c-1), Education Code, as added by this Act.

11 SECTION 9. This Act takes effect September 1, 2019.

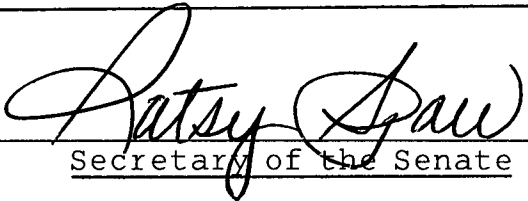
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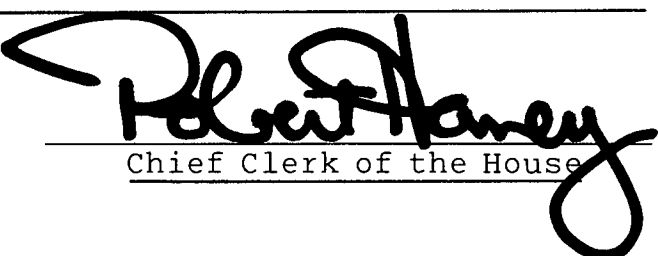

President of the Senate


Speaker of the House

I hereby certify that S.B. No. 38 passed the Senate on April 11, 2019, by the following vote: Yeas 26, Nays 5; and that the Senate concurred in House amendments on May 23, 2019, by the following vote: Yeas 30, Nays 1.


Secretary of the Senate

I hereby certify that S.B. No. 38 passed the House, with amendments, on May 17, 2019, by the following vote: Yeas 131, Nays 15, one present not voting.


Chief Clerk of the House

Approved:

6-14-2019
Date


Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
4:45 pm O'CLOCK

JUN 15 2019

Secretary of State