

HOUSE BILL REPORT

HB 1758

As Reported by House Committee On:
Public Safety

Title: An act relating to increasing the penalty for hazing.

Brief Description: Increasing the penalty for hazing.

Sponsors: Representatives Leavitt, Senn and Berry.

Brief History:

Committee Activity:

Public Safety: 1/28/22, 2/1/22 [DPS].

Brief Summary of Substitute Bill

- Reclassifies the crime of Hazing from a misdemeanor to a gross misdemeanor, and, in cases involving substantial bodily harm, to a class C felony.
- Adds felony Hazing to the statutory lists of crimes against persons and crimes of harassment.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Goodman, Chair; Johnson, J., Vice Chair; Mosbrucker, Ranking Minority Member; Davis, Graham, Griffey, Hackney, Orwall, Ramos, Simmons and Thai.

Minority Report: Without recommendation. Signed by 2 members: Representatives Klippert, Assistant Ranking Minority Member; Young.

Staff: Omeara Harrington (786-7136).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background:

Hazing.

Hazing is defined as a method of initiation into a student organization or living group, or any pastime or amusement engaged in with respect to such an organization or living group, that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm, to any student or other person attending a public or private institution of higher education. Customary athletic events or other similar contests or competitions are excluded from the definition.

It is a misdemeanor for any student or other person in attendance at any public or private institution of higher education to engage in or conspire to engage in hazing. Additionally, any organization, association, or student living group that knowingly permits hazing is strictly liable for any resulting harm to persons or property. If the entity is a corporation, the individual directors of the corporation may be held individually liable for damages.

Any person who participates in hazing forfeits any entitlement to state funded grants, scholarships, or awards for a period of time determined by the higher education institution. Any organization, association, or student living group that knowingly permits hazing must be deprived of any official recognition or approval granted by a public institution of higher education.

Sentencing.

Crimes are classified as misdemeanors, gross misdemeanors, or felonies. The classification of a crime generally determines the maximum term of confinement and/or fine for an offense. For each classification, the maximum terms of confinement and maximum fines are as follows:

Classification	Maximum Confinement	Maximum Fine
Misdemeanor	90 days	\$1,000
Gross Misdemeanor	364 days	\$5,000
Class C Felony	5 years	\$10,000
Class B Felony	10 years	\$20,000
Class A Felony	Life	\$50,000

When a person is convicted of a felony, the Sentencing Reform Act (SRA) applies and determines a sentence range within the statutory maximum. Sentence ranges are determined by reference to a sentencing grid that provides a standard range of months for the sentence based on both the severity, or "seriousness level," of the offense and the convicted person's "offender score," which is based on the offender's criminal history. Seriousness levels range from I to XVI. Offender scores can range from zero to nine or more points. A higher seriousness level or offender score results in a longer sentence.

Crimes Against Persons.

Statute designates a subset of crimes as crimes against persons. Crimes against persons are subject to certain guidelines and restrictions. For example, the guidelines for when prosecution should be pursued suggest that charges for a crime against persons should be brought whenever sufficient admissible evidence exists, that, when considered with the most plausible, reasonably foreseeable defense, would justify conviction by a reasonable and objective factfinder. Heightened victim notification standards also apply when the crime at issue is a crime against persons.

Additionally, upon conviction of a crime against persons, the court must order one year of community custody if the person is receiving a prison sentence, and may order community custody for up to one year if the person is receiving a jail sentence. Community custody is a portion of a criminal sentence that follows the term of confinement and is served in the community subject to controls placed on a person's movement and activities by the court and the Department of Corrections (DOC). The DOC is required to supervise any person ordered to community custody who is assessed as a high risk for reoffense.

Crimes of Harassment.

Certain crimes are included in a statutory list of crimes of harassment, which is used for a variety of purposes. For example, certain harassment-related gross misdemeanor offenses become class C felonies when the defendant has a prior conviction of a crime of harassment. Additionally, the DOC is required to send written notice to certain persons regarding the parole, release, community custody, work release placement, furlough, or escape of any person convicted of a crime of harassment. Also, when criminal charges are pending or when a person is convicted of a crime of harassment, the court is authorized to enter a no-contact order preventing the accused or convicted person from contacting or interfering with the victim. Violation of such order is a gross misdemeanor.

Summary of Substitute Bill:

Hazing is reclassified from a misdemeanor to a gross misdemeanor. Hazing that causes substantial bodily harm is reclassified as a class C felony. "Substantial bodily harm" includes bodily injury that: involves a temporary but substantial disfigurement; causes a temporary but substantial loss or impairment of the function of any body part or organ; or causes a fracture of any body part. Felony Hazing is ranked as a seriousness level III offense, carrying a low-end penalty of one to three months of incarceration.

Felony Hazing is designated as a crime against persons and a crime of harassment. Additionally, if a person in the commission of a Hazing offense commits any other crime, the person may be punished for the other crime as well as the Hazing offense and prosecuted for each crime separately.

Substitute Bill Compared to Original Bill:

A provision is added stating that if a person in the commission of a Hazing offense commits any other crime, the person may be prosecuted and punished for the other crime in addition to the Hazing offense. Felony Hazing is designated as a crime against persons and a crime of harassment.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed, except Sections 3, 5, and 7, related to the offense seriousness level, crimes against persons, and crimes of harassment, which due to a delayed effective date in prior legislation take effect July 1, 2022.

Staff Summary of Public Testimony:

(In support) Fifty five percent of students report hazing as part of student organizations and clubs, but 95 percent of these cases go unreported. Since the year 2000, there have been 100 hazing deaths. Hazing happens across all kinds of student groups and organizations, not just Greek organizations, and occurs in small and large campuses, and in urban and rural settings. The trauma associated with hazing has long-term impacts. Hazing is completely preventable and goes against the values of Greek life. With this change, Washington would join 14 other states to make hazing a felony in serious injury cases. Currently, students cannot be held accountable in the eyes of the law, and that should change.

Recently, a Washington State University student died as a result of hazing at his fraternity. He was given a half gallon of rum and told to drink. Dozens of fraternity members saw him incapacitated, but nobody sought help, and he died of alcohol poisoning. The statute of limitations expired on the Hazing offense and the members were ultimately charged with Furnishing Alcohol to a Minor. One person was sentenced to 19 days in jail, while the others were given community service.

Hazing is alive and well because of a lack of accountability and deterrence. Even when Hazing is charged, the current penalty is little more than a traffic ticket, regardless of the injury. This offense should be a felony when someone is seriously hurt or killed. This change will make it easier to get out-of-state subpoenas or search warrants, which sometimes are necessary in these cases. Raising the classification will also extend the statute of limitations. The statute of limitations for a misdemeanor is only one year, and it can be difficult to collect evidence in these cases. These events are by nature private and can be difficult and time consuming to investigate.

(Opposed) None.

Persons Testifying: Representative Mari Leavitt, prime sponsor; Gary Jenkins, Pullman Police Department; Jolayne Houtz; Hector Martinez; Denis Tracy, Whitman County Prosecuting Attorney; and Megan Gould, Washington State University Center for Fraternity and Sorority Life.

Persons Signed In To Testify But Not Testifying: None.