

Date of Hearing: April 23, 2024

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Mike Fong, Chair

AB 2193 (Holden) – As Introduced February 7, 2024

SUBJECT: Hazing: postsecondary education institutions: civil liability: resources

SUMMARY: Permits victims of hazing to take civil action against postsecondary education institutions if specific circumstances are met and provides judicial consideration for whether an institution should have known of the hazing practices and failed to take reasonable steps to stop the hazing practice, or unreasonably failed to prevent or discover the hazing practice for purposes of the lawsuit. Specifically, **this bill:**

- 1) Defines the following for purposes of the measure:
 - a) “Affiliated” means currently recognized or sanctioned by the postsecondary education institution. For purposes of this section, an organization that has been previously recognized or sanctioned by the education institution but is no longer recognized or sanctioned is not affiliated;
 - b) “Education institution” means a public or private institution of higher education in the state. The term includes officers, employees, or governing bodies of the institution; and,
 - c) “Hazing” means a method of initiation or preinitiation into a student organization or student body that is likely to cause serious bodily injury to a former, current, or prospective student of a postsecondary education institution. “Hazing” does not include customary athletic events or school-sanctioned events.
- 2) Permits, on January 1, 2025, a person who is the victim of hazing to take civil action for injury or damages. A person may take civil action against the participants in the hazing or the organization as permitted by the Penal Code Section 245.6, or an action may be brought against any postsecondary education institution for the hazing practices of the organization involving one or more students if the following apply:
 - a) At the time of the alleged hazing incident, the organization involved in the hazing is affiliated with the education institution; and,
 - b) One of the following occurred:
 - i) The education institution has direct involvement in the hazing practices of the organization;
 - ii) The education institution knew or should have known of the hazing practices, and failed to take reasonable steps to stop the hazing practice; or,
 - iii) The education institution unreasonably failed to prevent or discover the hazing practices of the organization.
- 3) Stipulates for purposes of determining whether a education institution, “should have known of the hazing practices and failed to take reasonable steps to stop the hazing practice, or

unreasonably failed to prevent or discover the hazing practice,” consideration shall be given to the extent the education institution, at the time of the alleged hazing incident, had each of the following measures in place:

- a) Adopt and distribute a written antihazing policy consistent with rules and procedures for hazing prevention, intervention, and discipline, including all of the following:
 - i) Prohibition on hazing;
 - ii) Notice of how violation will be enforced;
 - iii) Requirements for reporting of potential hazing;
 - iv) Examples of unacceptable activities and behaviors;
 - v) Required education and training programming;
 - vi) Annual distribution of the policy by means other than online posting; and,
 - vii) Designate at least one employee to oversee the implementation of the antihazing policy; and,
 - viii) Posting of the antihazing policy online on the education institution’s website.
- b) Implementation of a reasonable antihazing investigation, enforcement, and reporting program that includes all of the following:
 - i) Gathering confidential data about student experiences with hazing with affiliated student organizations and use the data to update the policies regarding the postsecondary education institution’s specific hazing prevention strategies;
 - ii) A reasonable and good faith process for diligently investigating and responding to reports of hazing in a timely manner and to document the investigations;
 - iii) Enforce hazing violations with appropriate penalties, including fines, withholding diplomas, or transcripts, discipline such as probation or suspension or dismissal, and recession of permission for an affiliated student organization to operate on campus property or to be affiliated with the education institution.
 - iv) Reporting of hazing incidents to law enforcement or other appropriate third parties when applicable.
 - v) Annual reporting online in a readily accessible and prominent location on the postsecondary education institution’s internet website on past hazing violations without disclosing personal identifying information of students.
- c) Implementation of a reasonable institution-wide antihazing education and training program that does all the following:
 - i) Aligns with the education institution in having a primary concern for student safety;

- ii) Reinforces that all students, faculty, and staff are responsibility for following reporting procedures when they notice hazing;
 - iii) Requires training on antihazing policies early intervention, reporting, and creating a safe school environment.
- 4) Permits a civil action brought by this measure or by Section 245.6 of the Penal Code to seek damages for emotional injuries as a component of actual damages in addition to any other remedies under the law including, but not limited to damages for bodily injury or harm.
 - 5) Clarifies the measure does not prohibit nor limit any other potential cause of action under any other law that is available to a person against whom hazing is directed.
 - 6) Requires by July 1, 2025, the California Department of Education (CDE) to make available on the CDE's website the following:
 - a) An model for an antihazing policy for K-12 districts, including private schools;
 - b) Resources on hazing prevention for provisional development purposes and for increasing awareness among pupils, school staff, and community member of the dangers of hazing.
 - 7) Encourages K-12 public and private schools maintaining kindergarten or any grades 1 to 12 to use the resources made available on the CDE's website for professional development purposes and to increase awareness among pupils, school staff, and community members of the dangers of hazing of hazing.

EXISTING LAW:

- 1) Requires the California Community Colleges, the California State University, the University of California College of the Law, San Francisco, University of California, and any postsecondary education institution receiving public funds for student financial aid to authorize the appropriate officials one each campus to compile records of all occurrences reported to campus police, campus security personnel, or campus safety authorities of and arrests for, crimes that are committed on campus and that involve violence, hate violence, theft, destruction of property, illegal drugs or alcohol intoxication (Education Code (EDC) Section 67380 (a) (1)).
- 2) Requires the California Community Colleges, the California State University, and the University of California to adopt specific rules and regulations governing student behavior along with the applicable penalties for violations of rules and regulations. The institutions shall adopt procedures by which all students are informed of such rules and regulations with applicable penalties (EDC Section 66300).
- 3) Requires the California Community Colleges, the California State University, and the University of California are requested to adopt and publish policies on harassment, intimidation, and bullying to be included within the rules and regulations governing student behavior within their respective segments of public postsecondary education. The intention of the Legislature is for the policies to be provided online and printed materials covering rules and regulations within respective segments of public postsecondary education (EDC Section 66302).

- 4) Requests the CSU and the UC to provide as part of the established campus orientations, educational and prevention information on cyberbullying to students on campuses (EDC Section 66302.5).
- 5) Declares it is unlawful to engage in hazing. Defines “Hazing” as a method of initiation or preinitiation into a student organization or student body, whether or not the organization or body is officially recognized by a postsecondary education institution, which is likely to cause serious bodily injury to any former, current, or prospective student of any school, community college, university, or other postsecondary education institution in the state. The term hazing does not include customary athletic events or school-sanctioned events;
- 6) Stipulates a violation of the above that does not result in serious bodily injury is a misdemeanor, punishable by a fine or not less than one hundred dollars, nor more than five thousand dollars, or imprisonment in the county jail for not more than one year, or both;
- 7) Stipulates a person who engages in hazing that results in death or serious bodily injury is guilty of either a misdemeanor or a felony and shall be punished by imprisonment in county jail not exceeding one year or by imprisonment;
- 8) Authorizes a person against whom hazing is directed to take civil action for injury or damages. The action may be brought against any participants in the hazing or any organization to which the student is seeking membership; and
- 9) Prosecution under this section will not prohibit prosecution under any other law (Penal Code 245.6).

FISCAL EFFECT: Unknown

COMMENTS: *Double referral.* This measure was heard by the Assembly Judiciary Committee on March 29, 2023, where it passed with a 10-0 vote. Issues germane to the judiciary were discussed in the Committee’s analysis.

Author’s intent. According to the author, “Hazing is a clearly detrimental practice that California has been characteristically taken seriously through legislation. Despite this, we have seen an influx of dangerous hazing practices within these organizations, and a lackluster effort on the part of many institutions to address it in a preventative manner. In its most tragic cases, hazing is often directly responsible for the death or serious injury of a young student. However, the ramifications of this practice extend far beyond for its survivors, undermining their self-esteem and impacting their psychological wellbeing.”

The author further contends, “this bill allows for civil action to be brought against a postsecondary education institution for an instance of hazing in which one or more students were involved if that postsecondary education institution knew or should have known of the dangerous hazing practices of an affiliated organization. In doing so, we hold the postsecondary education institutions who promote participation in and benefit from these organizations responsible for the consequences they may bring to students. This responsibility will incentivize institutions to bolster their oversight and preventative measures as they pertain to hazing. It keeps California on its path of addressing hazing practices in our state, and allows us to work with postsecondary education institutions and organizations to prioritize students’ safety.”

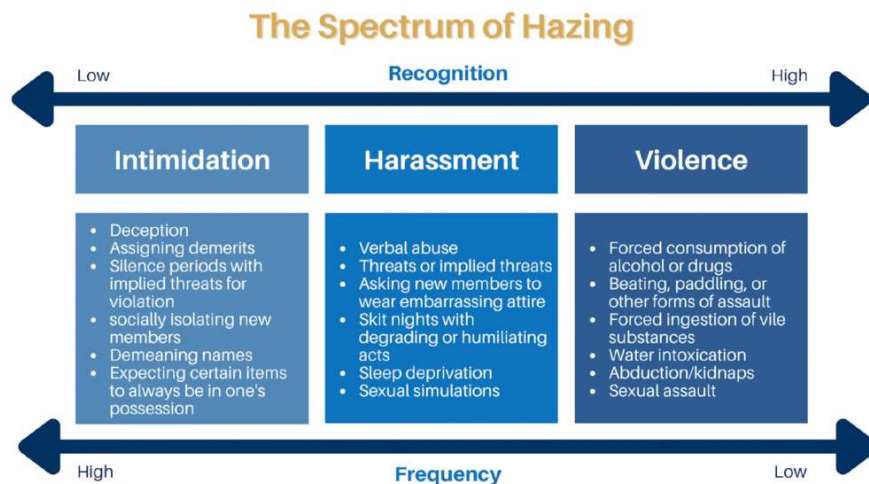
Hazing on college campuses. StopHazing.org was established in 1998 after the first state, New Hampshire, passed an anti-hazing law.¹ Currently, 46 States have adopted anti-hazing laws and there is an effort to pass a national requirement to prevent hazing on collegiate campuses. In 2008, a national study on hazing was produced by researchers at the University of Maine in collaboration with more than 30 project partners. “Hazing in View: College Students at Risk” found more than half of college students who are part of student organizations experience hazing and 47% of students experienced hazing prior to coming to college.²

According to Hank Nuwer Unofficial Hazing Clearinghouse, Unofficial Hazing Deaths Database Clearinghouse, Part Two, between 1959 and 2021, there has been one or more deaths from hazing; however no deaths have been declared from hazing in 2022, 2023, or 2024.³

Hazing is defined differently by different organizations. StopHazing.org defines hazing as having three parts:

- 1) It occurs in a group context;
- 2) The action perpetrated against another person is humiliating, degrading, or endangering in nature; and,
- 3) Happens regardless of the individual’s willingness to participate.⁴

Hazing is not relegated to collegiate campuses, it can occur on a high school campus and in the workplace. The location of the hazing is not what defines an act as hazing instead it is the action or behavior of one person whose acceptance to a group is predicated on the completion of the said action or behavior. Due to the myriad of behaviors that could constitute hazing, experts have thought of hazing as a spectrum from socially unacceptable behavior to torture (waterboarding and sleep deprivation).⁵



(Allan, 2015; Allan & Kerschner, 2020; adapted from Bringing in the Bystander[®])

¹ <https://stophazing.org/about/>

² <https://stophazing.org/research/national-hazing-study-hazing-in-view/>

³ <https://www.hanknuwer.com/hazing-destroying-young-lives/>

⁴ <https://stophazing.org/issue/>

⁵ <https://deanofstudents.berkeley.edu/our-resources/support/hazing/>

California law already prohibits certain types of hazing. The Penal Code Section 245.6 makes the act of hazing a misdemeanor or a felony depending upon the scope of the bodily injury to the victim or whether the act lead to the death of the victim. Furthermore, the Penal Code permits a person to sue the participants in the hazing or the organization, including specific members or staff of the organization, which permitted the hazing.

If individuals who are subject to hazing can already sue the people who committed the hazing and the organization who permitted it for injury or damages, the Committee may wish to explore if AB 2193 is necessary?

Proponents of the measure would argue the bill is necessary because victims of hazing are not able to sue the postsecondary education institution for damages following a hazing incident. AB 2193 (Holden) would establish the right for victims to sue postsecondary education intuitions if the following occurred:

- 1) If the student organization whose students conducted the hazing was a sanctioned or recognized student organization; and,
- 2) If the postsecondary education institution knew or should have known of the hazing practices and failed to take reasonable steps to stop the hazing practice, or unreasonably failed to prevent or discover the hazing practices of the organization.

The Assembly Judiciary Committee’s analysis on AB 2193 (Holden) states: “California courts differ on the extent to which universities have a special relationship to students, they have been reluctant to find colleges and universities liable for harms caused by hazing.”⁶ Therefore, this measure is necessary to hold colleges and universities liable under the law for hazing.

AB 2193 (Holden) does not contain a safe harbor or a rebuttal presumption, but instead permits the court to consider if the postsecondary education institution has enacted enough administrative protocols to discover, prevent, and address hazing on campus to avoid civil liability. As described in the Assembly Judiciary Committee’s analysis, “this does not mean that postsecondary education institutions must stop all hazing activity or that a postsecondary education institution will automatically be liable for any injury caused by hazing activities. They would only be expected to take reasonable steps to discover or prevent dangerous hazing activity among affiliated student organization which the college or university formally recognizes.”⁶

Reasonable steps to address hazing. AB 2193 (Holden) would by establishing liability require postsecondary education institution to do the following:

- 1) Establish a new policy on hazing prevention, intervention, and discipline;
- 2) Implement a reasonable antihazing investigation, enforcement, and reporting program, including a confidential survey about student experiences with hazing;
- 3) Implement a reasonable antihazing education and training program; and,

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- 4) Establishes all students, faculty, and staff are responsible reporters when they notice hazing.

The reasonable steps required by the measure are the strongest and most robust policies to address any student code of conduct violation on campus and go above and beyond the requirements established by the State for other student code of conduct violations, such as sexual harassment.

In 2023, *The Chronicle of Higher Education* published a report, “The Future of Campus Safety: Managing Risk, Promoting Welfare”, which contained a section on the best practices for addressing and preventing hazing. The report’s section on hazing begins with highlighting how, “activists have called on more state legislatures to make hazing a felony, increase colleges’ reporting obligations, and mandate anti-hazing training on campus.” The report opines the main prevention tool to prevent hazing is an integrated prevention training program that helps to identify the warning signs, provide bystander intervention, and to establish a culture where reporting is met with support.

In examining the student code of conduct and campus safety policies, Committee Staff learned California postsecondary education institutions already have prohibitions on hazing. Campuses have definitions of hazing, policies prohibiting hazing, reporting options for those who are victims, and adjudication processes for hazing incidents within their student code of conduct, all of which are easily accessible from the campus websites.

Therefore it appears, the majority of postsecondary education institutions are already in compliance with almost all of the provisions of AB 2193 (Holden) when it comes to reasonable steps. *The Committee may wish to explore whether having policy requirements in the Education Code is an alternative to punitive civil liability.*

Committee Staff note that in some cases the antihazing policies adopted by the postsecondary education institution provide for disciplinary action to be taken for behavior that is not illegal under the Penal Code nor would be subject to civil litigation under this measure.

For example, CSU Long Beach prohibits psychological hazing, which is not listed in the Penal Code definitions. CSU Long Beach’s definition of hazing includes behaviors such as never doing anything with pledges, requiring pledges to call members Mr. or Miss, scavenger hunts or road trip, and phone or house duty that are only assigned to pledges. These are all prohibited behaviors which go beyond the scope of AB 2193 (Holden).

A recent incident of hazing at UC Davis was reported where a student was hazed by a fraternity on campus. The hazing was reported, and the Office of Student Support and Judicial Affairs on campus is reviewing the case. In the meantime, the student organization has ceased operations until the review is complete. UC Davis has most, if not all, of the required reasonable steps required by AB 2193 (Holden) and, yet, the student was still subjected to hazing.

The student is on the record stating he hopes to have the student organization pay for his medical bills and he wants an apology.⁷

⁷ <https://www.sacbee.com/news/local/article287797090.html>

While the incident and subsequent disciplinary actions are pending, this incident raises concerns not addressed by AB 2193 (Holden), specifically regarding remedies or supportive measures for victims of hazing.

This measure creates a lengthy legal process by which a student who is a victim would have to go through two separate adjudication processes before they ever receive relief for damages:

- 1) The postsecondary education institution wouldn't have an investigative procedure with penalties for the perpetrators, but no mention of remedies for the victims; and,
- 2) A legal court case where the attorney would sue the postsecondary education for monetary relief.

In an age where restorative justice and educational access are paramount principles for how to address misconduct on campus, this measure appears to focus on the punitive damages an attorney and victim could take against a postsecondary education institution, but mentions nothing about having immediate relief or provisions to protect the student from retaliation, nor does it offer supportive measures to help the victims matriculate with their studies.

Furthermore, the measure as written opens postsecondary education institutions to potential liability on two fronts, from the victim of the hazing incident and from the respondent (those who conducted the hazing). The measure does not include an evidentiary standard, due process rights, nor the right to appeal for those who are accused of hazing. The measure also permits as a disciplinary measures the withholding of diplomas and transcripts, a practice that previous bills considered by this Committee have sought to disband.

Arguments in support. According to the Consumer Attorneys of California, "Hazing is a clearly detrimental practice that California has characteristically taken seriously through legislation. This piece of legislation keeps us on that path by holding the postsecondary education institutions who promote participation in and benefit from these organizations responsible for the consequences that they may bring to students. This responsibility will hopefully incentivize institutions to bolster their oversight and preventative measures as they pertain to hazing to save students' lives."

"Current law already allows for a civil action to be brought against the participant or organization involved in the hazing; however, the postsecondary education institution with knowledge of the hazing currently cannot be held accountable. AB 2193 will mirror the current policy in ensuring that postsecondary education institutions that knew or should have known of the dangerous hazing practices are also held accountable. To be found liable the institution must be affiliated with the organization and (1) would either have to have had direct involvement in the dangerous hazing practices; (2) the institution knew or should have known about the dangerous hazing practices; or (3) unreasonably failed to prevent or discover the hazing practices of the organization."

According to the Faculty Association of the California Community Colleges, "AB 2193 sends a clear message that hazing will not be tolerated in California's community colleges by establishing civil liability for postsecondary education institutions that are directly involved in hazing, fail to take reasonable steps to stop known hazing practices, or unreasonably fail to prevent or discover hazing practices by affiliated organizations. This bill encourages institutions to take proactive steps to prevent hazing, such as implementing comprehensive anti-hazing

policies, conducting thorough investigations, and providing education and training to students, faculty, and staff. Furthermore, requiring the State Department of Education to provide model anti-hazing policies and resources ensures that all postsecondary education institutions have access to the tools and guidance needed to effectively address and prevent hazing. This provision will help to establish a statewide approach to combating hazing and promoting student safety.”

Arguments in opposition. The Public Risk Innovation, Solutions, and Management, a California Joint Powers Authority representing approximately 2,000 public entities, opposes AB 2193 (Holden) as, “we believe this measure would open higher education institutions to costly litigation, especially since the bill states that the institution “should have known” of an affiliated organization's hazing practices. AB 2193 implies that institutions should have been aware of hazing practices within affiliated organizations. However, this standard places an undue burden on institutions, potentially leading to expensive legal battles. We believe that unless an institution can be proven grossly negligent in preventing hazing incidents, it is unfair to hold them liable for events beyond their control. The “should have known” standard creates an unrealistic expectation for institutions to have micro-level involvement within student organizations. It assumes that institutions can foresee every action taken by these groups, which is impractical and unfeasible.”

The Association of Independent California Colleges and Universities (AICCU), expressed concerns, as the AICCU’s, “concerns remain consistent with those expressed last year on AB 299, a nearly identical proposal to AB 2193. We remain concerned that the scope of civil liability proposed in the bill remains onerous, particularly since it applies to all campus-recognized student organizations, which in addition to Greek life would include intercollegiate and club athletics, student clubs, and more. At some of our institutions, the number of student organizations this could encapsulate will be in the hundreds. While we agree that many of the proposed measures in the bill are appropriate, we do not believe that it is possible to fully legislate individuals from committing illegal acts. The language in print does not provide clear assurances that institutions can avoid civil litigation, even if they have each of the measures set forth in subsection (c).”

“This bill also could have the unintended consequence of reducing the oversight of colleges over certain student organizations. Our colleges and universities work to leverage every dollar in their budgets, yet there are concerns about whether claims brought forward under this bill would be covered by institutions’ general liability coverage. The potential for expanded legal exposure under this bill without question require university general counsels to re-examine their recognition of certain student organizations. If institutions disaffiliate with student organizations in order to minimize their legal and financial risk, bad actors may still operate, albeit outside the bounds of the institution.”

Committee comments. In their support of the measure, the Consumer Attorneys of California argue AB 2193 (Holden) is necessary as “postsecondary education institutions with knowledge of the hazing currently cannot be held accountable.”

AB 2193 (Holden) could also lead to postsecondary education institutions being held accountable for acts of hazing that occurred without the postsecondary education institutions knowledge. The measure permits a court to determine if the *reasonable measures* conducted by the institution as listed by the measure, *were enough to discover* the hazing practice of the organization or prevent the hazing.

AB 2193 (Holden) raises a question as to whether postsecondary education institutions are responsible for preventing all acts of violence on campus.

In “The Regents of the Univ. of California v. Superior Court (CA SCt 2018) No. S230568” it was successfully argued that higher education’s free pass on liability for foreseeable violence against their students is no longer defensible.⁸ Specifically the California Supreme Court opined,

“We emphasize that a duty of care is not the equivalent of liability. Nor should our holding be read to create an impossible requirement that colleges prevent violence on their campuses. Colleges are not the ultimate insurers of all student safety. We simply hold that they have a duty to act with reasonable care when aware of a foreseeable threat of violence in a curricular setting. Reasonable care will vary under the circumstances of each be unavoidable despite a college’s best efforts to prevent them. Courts and juries should be cautioned to avoid judging liability based on hindsight case. Moreover, some assaults may be unavoidable despite a college’s best efforts to prevent them.”⁹

The Supreme Court of California further opined the scope of liability is a matter of public policy despite arguing that colleges despite their best efforts may not be able to prevent every act of violence on campus.

The second policy question before this Committee is what constitutes “reasonable steps” in preventing hazing on campus.

AB 2193 (Holden) goes beyond evidence based best practices for the prevention of hazing on campus. Senate Bill 2901 by Senator Klobuchar contains evidence-based national best practices as identified in the Federal Anti-Hazing Legislation and REACH Act: A Concept Paper by the Clery Center and StopHazing.org¹⁰. The congressional proposal includes:

- 1) A definition of hazing;
- 2) Requirements for annual reporting on hazing incidents that occurred on campus; and,
- 3) Requires postsecondary education institutions to include educational and comprehensive research-based programming on hazing¹¹.

Furthermore, the “reasonable steps” as suggested by AB 2193 (Holden) are far beyond any other requirements to address prevent and address violations of student code of conduct on campus, including the ban on drinking and drugs on campus.

In a 50-State Summary of Hazing Laws, conducted by the SUNY Student Conduct Institute, found that 46 states have at least some type of antihazing law contained within their state laws. These laws range from criminal laws with sanctions for individuals and universities to educational codes that threaten to withdraw funding from institutions for failure to investigate

⁸ <https://www.vectorsolutions.com/resources/blogs/ca-supreme-court-rules-universities-duty-protect-foreseeable-violence/>

⁹ <https://law.justia.com/cases/california/supreme-court/2018/s230568.html>

¹⁰ <https://stophazing.org/wp-content/uploads/2021/04/REACH-White-Paper.pdf>

¹¹ <https://www.congress.gov/bill/118th-congress/senate-bill/2901?q=%7B%22search%22%3A%22%22%7D&s=1&r=1>

fully.¹² None have civil liability; in fact, some states have immunity from liability for reporting and addressing hazing.

Opponents of the measure have suggested to Committee Staff the only the method by which an institution would be shielded from civil liability would be to disband all student organizations, including those with classroom activities such as band, debate club, and student associations that represent the student body.

During the Assembly Judiciary Committee hearing on March 19, 2024, proponents of AB 2193 (Holden), stated that if an institution were to follow the policies and procedure enumerated in Section 32050 subdivision (c) of this measure, a summary judgement would be granted and postsecondary education institution would not be libel. “Summary judgements” are when one party contents there are no facts that need to be decided or the parties agree on the facts.

AB 2193 (Holden) states the court has discretion to consider whether the postsecondary education institution adopted the provision of subdivision (c) and implemented those provision in a reasonable manner to prevent and address hazing. Therefore, by the very nature of the bill, if lawsuits were brought forward it would mean the facts were in dispute and therefore the court would use their discretion.

The description by the proponents of AB 2193 (Holden) would suggest a safe harbor or a rebuttal presumption exists. However, as described in the Assembly Judiciary Committee’s analysis, the measure does not have a safe harbor nor a rebuttal presumption. Safe harbor would mean if the postsecondary education institution adopted the policies enumerated in subdivision (c) of Section 32050 of this measure, the postsecondary education intuition would be determined to have acted reasonably. Rebuttal presumption presumes that the postsecondary education institution acted reasonably unless there is evidence to prove otherwise or there is enough evidence to create sufficient doubt.

The Governor vetoed AB 299 (Holden) of 2023, because:

“Beginning January 1, 2025, this bill authorizes a civil action against a public or private institution of higher education by a person harmed by hazing involving an organization affiliated with the postsecondary education institution when the institution had direct involvement in, knew of, or "in the exercise of ordinary care reasonably should have known" of the hazing and unreasonably failed to prevent, discover, or stop the hazing.

Hazing has no place in public or private institutions of higher education (IHE). I agree that IHEs that knowingly support hazing or fail to take reasonable steps to prevent hazing should be accountable. However, as drafted, this bill goes much further than that, creating expansive financial exposure even for IHEs that are taking appropriate steps to protect their students from hazing. I encourage the author to more clearly define when liability arises when IHEs have taken statutorily defined reasonable steps to prevent hazing.

For these reasons, I cannot sign this bill.”

¹² <https://system.suny.edu/sci/news/4-21-21-hazing/index.html>

The concerns from the Governor's veto regarding exposure for postsecondary education institutions that are taking appropriate steps is still warranted. The author has yet to address this concern and therefore, this measure still opens institutions; who are reasonably taking steps to address hazing, to lawsuits.

The Committee may wish to explore if opening institutions to costly lawsuits will ultimately harm students. The cost to pay for the lawsuits will result in higher tuition costs and could result in a disbandment of student organizations on campus for smaller universities.

Due to the concerns specified above, the Committee has offered and the Author has accepted the following amendments:

1) Section 66304 is added to the Education Code

66304 This chapter shall be known, and may be cited, as the Stop Campus Hazing Act.

Section 2. Section 66305 is added to the Education Code:

66305. (a) No person shall be subjected to hazing in any program or activity conducted by any postsecondary education institution that receives, or benefits from, state financial assistance or enrolls students who receive state student financial aid.

(b) Hazing" means any method of initiation or preinitiation into a student organization or student body, whether or not the organization or body is officially recognized by an postsecondary education institution, which is likely to cause serious bodily injury to any former, current, or prospective student of any school, community college, college, university, or other postsecondary education institution in this state. The term "hazing" does not include customary athletic events or school-sanctioned events.

2) Section 66305 is added to the Education Code:

66305. ~~32050~~ (a) For purposes of this section, the following definitions apply:

(1) "Affiliated" means currently recognized or sanctioned by the postsecondary education institution. For purposes of this section, an organization that had previously been recognized or sanctioned by the postsecondary education institution but has subsequently had that recognition or sanction withdrawn shall not be considered affiliated.

(2) "Postsecondary education institution" means a public or private institution of higher education in the state. The term includes the officers, employees, or governing bodies of the institution.

(3) "Hazing" means any method of initiation or preinitiation into a student organization or student body, whether or not the organization or body is officially recognized by an education institution, which is likely to cause serious bodily injury to any former, current, or prospective student of any school, community college, college, university, or other education institution in this state. The term "hazing" does not include customary athletic events or school-sanctioned events.

~~any intentional, knowing, or reckless act committed by a student or an institution of higher education, whether individually or in concert with other persons against another student,~~

~~regardless of that student's willingness to participate, that was committed in connection a method of initiation or preinitiation into a student organization or student body that is likely to cause serious bodily injury to a former, current, or prospective student of an postsecondary education institution. "Hazing" does not include customary athletic events or school-sanctioned events.~~

(b) Beginning January 1, 2026 2025, a person against whom hazing is directed may commence a civil action for injury or damages. In addition to bringing an action against any participants in the hazing or the organization pursuant to subdivision (e) of Section 245.6 of the Penal Code, an action may be brought against any postsecondary education institution for the hazing practices of the organization involving one or more students if both of the following apply:

(1) The postsecondary education institution had direct involvement in the hazing practice of the organization, knew or should have known of the hazing practices and failed to take reasonable steps to stop the hazing practice of the organization.

~~The postsecondary education institution has direct involvement in the hazing practices of the organization, knew or should have known of the hazing practices and failed to take reasonable steps to stop the hazing practice, or unreasonably failed to prevent or discover the hazing practices of the organization.~~

(2) At the time of the alleged hazing incident, the organization involved in the hazing is affiliated with the postsecondary education institution.

(c) For purposes of paragraph (1) of subdivision (b) there shall be a rebuttable presumption an education institution took reasonable steps to address hazing if the education institution has done all of the following:

(1) Updated existing rules and regulations governing student behavior to include a prohibition on hazing and adopted applicable penalties for the violation of the hazing prohibition. The education institutions shall adopt procedures by which all students are informed of such rules and regulations, with applicable penalties, and any revisions thereof.

(2) Updated existing rules and regulations governing employee behavior to include a prohibition on hazing and adopted applicable penalties for the violation of the hazing prohibition. The education institutions shall adopt procedures by which all employees are informed of such rules and regulations, with applicable penalties, and any revisions thereof.

(3)(A) Implemented a comprehensive prevention and outreach programs addressing hazing. A comprehensive prevention program shall include a range of prevention strategies, including, but not limited to, empowerment programming for victim prevention, awareness raising campaigns, primary prevention, bystander intervention, and risk reduction. Outreach programs shall be provided to make students aware of the institution's policy on the prohibition on hazing. At a minimum, an outreach program shall include a process for contacting and informing the student body, campus organizations, athletic programs, and student groups about the institution's overall prohibition on hazing policy.

(B) The comprehensive prevention and outreach program to address hazing shall be part of every incoming student's orientation and shall be offered annually to the following campus affiliated organizations:

(i) Athletic teams

(ii) Campus-recognized sorority or fraternity

(C) For purposes of this section "comprehensive prevention and outreach program" includes, but is not necessarily limited to, providing information to students about all of the following:

(i) Hazing awareness, prevention, and the institution's policy on the prohibition of hazing.

(ii) Campus policies and resources relating to hazing, including how to report hazing to the appropriate campus personnel.

(iii) A focus on prevention and bystander intervention training as it relates to hazing.

~~For purposes of determining under paragraph (1) of subdivision (b) whether an postsecondary education institution "should have known of the hazing practices and failed to take reasonable steps to stop the hazing practice, or unreasonably failed to prevent or discover the hazing practices of the organization," consideration shall be given to the extent that the institution, at the time of the alleged hazing incident, had each of the following measures in place:~~

~~(1) Adoption and distribution of a written antihazing policy consisting of rules and procedures for hazing prevention, intervention, and discipline, including all of the following:~~

~~(A) Prohibition on hazing.~~

~~(B) Notice of how violations will be enforced.~~

~~(C) Requirements for the reporting of potential hazing.~~

~~(D) Examples of unacceptable activities and behaviors.~~

~~(E) Required education and training, as described in paragraph (3).~~

~~(F) Annual distribution of the policy by means other than online posting.~~

~~(G) Designation of at least one employee to oversee the implementation of the antihazing policy.~~

~~(H) Posting the antihazing policy online in a readily accessible and prominent location on the postsecondary education institution's internet website in a manner that is easily accessible to the public.~~

~~(2) Implementation of a reasonable antihazing investigation, enforcement, and reporting program that includes all of the following:~~

~~(A) Gathering confidential data about student experiences with hazing with affiliated student organizations.~~

~~(B) Incorporation of the data gathered under subparagraph (A) to build or refine institution-specific hazing prevention strategies.~~

~~(C) A reasonable and good faith process for diligently investigating and responding to reports of hazing in a timely manner.~~

~~(D) Documentation of investigations required by subparagraph (C).~~

~~(E) Enforcing hazing violations with appropriate penalties, including fines, withholding diplomas or transcripts, discipline such as probation, suspension, or dismissal, and rescission of permission for an affiliated student organization to operate on campus property or be affiliated with the postsecondary education institution.~~

~~(F) Reporting of hazing incidents to law enforcement or other appropriate third parties when applicable.~~

~~(G) Annual reporting online in a readily accessible and prominent location on the institution's internet website on past hazing violations without disclosing personal identifying information of students.~~

~~(3) Implementation of a reasonable institutionwide antihazing education and training program that does all of the following:~~

~~(A) Aligns with the postsecondary education institution in having a primary concern for student safety.~~

~~(B) Reinforces that all students, faculty, and staff are responsible for following reporting procedures when they notice hazing.~~

~~(C) Requires training on antihazing policies, early intervention, reporting, and creating a safe school environment.~~

~~(d) A civil action brought under this section or Section 245.6 of the Penal Code may seek damages for emotional injuries as a component of actual damages, in addition to any other remedies available under law, including, but not limited to, damages for bodily injury or harm.~~

~~(e) *The duties and obligations imposed by this act are cumulative with any other duties or obligations imposed under other law and shall not be construed to relieve any party from any duties or obligations imposed under other law, and do not limit any rights or remedies under existing law*~~

~~This section does not prohibit or limit any other potential cause of action under any other law that is available to a person against whom hazing is directed.~~

3) Adds Education Code Section 66306 to read as follows:

66306 (a) *On or before June 30, 2026, and on or before June 30 of each year thereafter, the Trustees of the California State University, the Regents of the University of California, and the appropriate governing bodies of each independent institution of higher education that is a “qualifying institution,” as defined in subdivision (l) of Section 69432.7, shall report to the appropriate policy committees of the Legislature the number of hazing incidents that constituted a violation of the institution of higher education policy prohibiting hazing, and, whether the violation was affiliated with a student organization. The report shall be disaggregated by campus.*

(b) *Notwithstanding any other requirement of this section, a report required pursuant to this subdivision shall comply with all applicable state and federal privacy laws, including, but not limited to, the federal Family Educational Rights and Privacy Act (20 U.S.C. Sec. 1232g).*

(c) *As used in this chapter, the following definitions apply:*

(1) *“Student organization” means any of the following:*

(A) *An intercollegiate athletic program at the institution of higher education.*

(B) *A sorority or fraternity that has officially met the formal chartering and recognition requirements at the institution of higher education where it operates.*

(C) *An organization recognized or sanctioned by the postsecondary education institutions whose membership includes more than 100 students.*

(2) *“Hazing” means intentional, knowing, or reckless act committed by a student or an employee of the institution of higher education, whether individually or in concert with other persons against another student, regardless of that student’s willingness to participate, that was committed in connection with the initiation into, or the maintenance of membership in, any affiliated organization that is recognized or sanctioned by the institution of higher education, including any clubs, associations, fraternity, sorority, or athletic teams recognized or sanctioned by that institution; and, is likely to cause or causes serious bodily injury or serious mental harm, or death to a current student of an education institution. “Hazing” does not include customary athletic events or school-sanctioned events.*

REGISTERED SUPPORT / OPPOSITION:

Support

California Federation of Teachers Afl-cio
 Consumer Attorneys of California
 Faculty Association of California Community Colleges

Oppose

Association of California Community College Administrators
 California Chamber of Commerce
 Community College League of California

Public Risk Innovation, Solutions, and Management (PRISM)
Statewide Association of Community Colleges

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