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S.B. 126  
134<sup>th</sup> General Assembly

## Final Analysis

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**Version:** As Passed by the General Assembly

**Primary Sponsors:** Sens. Kunze and Gavarone

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### SUMMARY

#### **Criminal offense of “hazing”**

- Includes in the criminal definition of “hazing” an act to continue or reinstate membership in a specified organization that creates a substantial risk of harm.
- Expressly includes in the criminal definition of “hazing” coercing individuals to consume alcohol or a drug of abuse.
- Increases the penalty for the existing prohibitions against hazing to a second degree misdemeanor.
- Expands the list of specified officials who are prohibited from recklessly permitting hazing and limits that prohibition to offenses committed against an individual associated with the specified official’s organization.
- Prohibits an individual from recklessly participating in hazing that includes forced consumption of alcohol or drugs of abuse resulting in serious physical harm to another.
- Prohibits a specified institution, school, or organization official from recklessly permitting hazing that includes forced consumption of alcohol or drugs of abuse resulting in serious physical harm to an individual associated with the official’s organization.
- Specifies that a violation of either of the two new prohibitions regarding hazing that includes forced consumption resulting in serious physical harm is a third degree felony.

#### **Criminal prohibition on failure to report hazing**

- Requires specified officials to immediately report to law enforcement the knowledge or reasonable cause to suspect that an individual has suffered or faces a threat of hazing.

- Makes the reckless failure to fulfill that reporting requirement a fourth degree misdemeanor or, if the hazing causes serious physical harm, a first degree misdemeanor.

## **State and institutional anti-hazing plan and policies**

- Requires the Chancellor of Higher Education to adopt a statewide educational plan for preventing hazing at institutions of higher education that includes both a model anti-hazing policy and guidelines for anti-hazing education and training.
- Requires each public and private institution of higher education to adopt an anti-hazing policy, to report hazing incidents, and to provide student and faculty educational training.

### **Title**

- Entitles the act “Collin’s Law: The Ohio Anti-Hazing Act.”

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## **DETAILED ANALYSIS**

### **Criminal offense of “hazing”**

The act revises the criminal definition of “hazing” in two ways. First, it expands that definition to include “any act to continue or reinstate membership in or affiliation with any student or other organization.” Under former law, the definition of “hazing” was limited to “doing any act or coercing another, including the victim, to do any act of initiation into any student or other organization.” Second, the act expressly specifies that hazing may include coercing another to consume alcohol or a drug of abuse.

The act maintains the standard that, for any act or coercion to rise to the level of criminal hazing, it must cause or create a substantial risk of causing mental or physical harm to any person.<sup>1</sup>

### **Application**

For purposes of determining which entities and individuals are subject to the hazing law, the act specifies that an “organization” includes a national or international organization with which a fraternity, sorority, or other organization is affiliated.<sup>2</sup>

Moreover, it maintains the application of the hazing law to both public and private educational institutions.<sup>3</sup>

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<sup>1</sup> R.C. 2903.31(A)(1).

<sup>2</sup> R.C. 2903.31(A)(2).

<sup>3</sup> R.C. 2903.31(B).

## **Prohibitions against and penalty for “hazing”**

The act adds the following individuals to the list of those prohibited from recklessly permitting hazing: teachers, consultants, alumni, and volunteers of any organization, including primary, secondary, and post-secondary schools and any other public or private educational institution. Formerly, only administrators, employees, and faculty members were so prohibited.

In addition, the act specifies that this prohibition applies only to hazing of any person *associated with the organization*, rather than any person in general as under former law.<sup>4</sup>

The act increases the criminal penalty for recklessly participating in, or permitting, “hazing” to a second degree misdemeanor, instead of a fourth degree misdemeanor as under former law.<sup>5</sup>

## **New prohibitions against “hazing” under special circumstances**

The act further establishes two new prohibitions against hazing. Specifically, it prohibits:

1. Any person from recklessly participating in the hazing of another when the hazing includes coerced consumption of alcohol or drugs of abuse resulting in serious physical harm to the other person; and
2. An administrator, employee, faculty member, teacher, consultant, alumnus, or volunteer of any organization, including primary, secondary, or post-secondary schools or any other public or private educational institutions, from recklessly permitting the hazing of any person associated with the organization when the hazing includes coerced consumption of alcohol or drugs of abuse resulting in serious physical harm to that person;

A violation of either of these prohibitions is a third degree felony.<sup>6</sup>

## **Failure to report hazing**

The act prohibits an administrator, employee, faculty member, teacher, consultant, alumnus, or volunteer of any organization, including a primary, secondary, or post-secondary school or any other public or private educational institution, who is acting in an official and professional capacity from recklessly failing to immediately report the knowledge of hazing to a law enforcement agency in the county in which the victim of hazing resides or in which the hazing is occurring or has occurred.<sup>7</sup>

The act makes a violation of this provision a fourth degree misdemeanor. However, if the violation causes serious physical harm, it is a first degree misdemeanor.<sup>8</sup>

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<sup>4</sup> R.C. 2903.31(B)(2).

<sup>5</sup> R.C. 2903.31(D).

<sup>6</sup> R.C. 2903.31 (C) and (D).

<sup>7</sup> R.C. 2903.311(B).

<sup>8</sup> R.C. 2903.311(C).

## Statewide hazing prevention plan

Under the act, the Chancellor of Higher Education must develop a statewide educational plan for preventing hazing at institutions of higher education. It must include (1) a model anti-hazing policy and (2) guidelines regarding anti-hazing education and training. The model policy must prohibit students and other individuals associated with an organization from engaging in any of the hazing offenses and must include provisions that mirror the requirements for institutional anti-hazing policies as described below.<sup>9</sup> The Chancellor's guidelines must provide anti-hazing education and training for (1) students, (2) administrators, faculty, and individuals employed by an institution, and (3) organizations recognized by, or operating under the sanction of, an institution.<sup>10</sup>

## Institutional anti-hazing requirements

### Anti-hazing policy

The act requires each public and private institution of higher education to develop an anti-hazing policy that includes rules prohibiting hazing, a method to enforce the policy, and appropriate penalties for violations. The policy's penalties, if imposed, are in addition to criminal penalties and may include the imposition of fines, withholding of diplomas or transcripts, the revocation of permission to operate an organization on campus, or probation, suspension, dismissal, or expulsion. Each policy applies to any act of hazing or violation of the act's criminal provisions on or off-campus that takes place between two or more people who are affiliated with the institution.

Each institution must post the policy on the institution's publicly accessible website and provide copies to all organizations within the institution.<sup>11</sup>

### Reports of hazing violations

Beginning with the 2022-2023 academic year, each institution must maintain and post a report of hazing violations. To the extent permitted by the federal Family Educational Rights and Privacy Act,<sup>12</sup> each report must include the name of the offender, the date the offender was charged with a violation and the date of resolution, a general description of the violation, investigation and findings, and penalties imposed.

The initial report must include all hazing violations reported to the institution for the five previous consecutive years, to the extent the institution has retained that information. An institution must post its first report by January 15, 2023, and must update and re-post it on January 1 and August 1 of each year. These reports shall be retained for five consecutive years.<sup>13</sup>

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<sup>9</sup> R.C. 3333.0417(B)(1) and 3345.19(B).

<sup>10</sup> R.C. 3333.0417(B)(2).

<sup>11</sup> R.C. 3345.19(B) and (C).

<sup>12</sup> See 20 United States Code 1232g and 34 Code of Federal Regulations 99.1 *et seq.*

<sup>13</sup> R.C. 3345.19(D).

## Student anti-hazing education

The act requires each institution to provide students with an online or in-person educational program on hazing, hazing awareness, prevention, intervention, and the anti-hazing policy that complies with the Chancellor's guidelines. Each institution must (1) offer an opportunity for students to complete the program during new student orientation, (2) certify each student's attendance, and (3) prohibit a student who does not attend the program from participating in any institutional organization. Likewise, each organization within an institution is prohibited from accepting or initiating a student who has not completed the program.<sup>14</sup>

## Staff and volunteer training

Each institution must provide mandatory training on hazing to all staff and volunteers that advise or coach an organization and who have direct contact with students. The training must include information on hazing awareness, hazing prevention, and the institution's anti-hazing policy. Each institution also must adopt rules requiring organizations to conduct mandatory anti-hazing training that complies with the Chancellor's guidelines for any volunteers who have contact with students.<sup>15</sup>

## No private right of action

The act provides that nothing contained in its provisions may be construed to create a private right of action against any individual or institution of higher education.<sup>16</sup>

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## HISTORY

Action	Date
Introduced	03-10-21
Reported, S. Education	06-16-21
Passed Senate (33-0)	06-16-21
Reported, H. Criminal Justice	06-24-21
Passed House (89-0)	06-25-21
Senate concurred in House amendments (33-0)	06-28-21

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<sup>14</sup> R.C. 3345.19(E)(1) and (4).

<sup>15</sup> R.C. 3345.19(E)(2), (3), and (4).

<sup>16</sup> R.C. 3345.19(F) and Section 4.