CHAPTER 202

HOUSE BILL 2322

AN ACT

AMENDING TITLE 13, CHAPTER 12, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 13-1215 AND 13-1216; AMENDING SECTION 15-2301, ARIZONA REVISED STATUTES; RELATING TO ASSAULTS AND RELATED OFFENSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 13, chapter 12, Arizona Revised Statutes, is amended by adding sections 13-1215 and 13-1216, to read:

13-1215. Hazing; classification; definition

A. A person commits hazing by intentionally, knowingly or recklessly, for the purpose of pre-initiation activities, pledging, initiating, holding office, admitting or affiliating a minor or student into or with an organization or for the purpose of continuing, reinstating or enhancing a minor’s or student’s membership or status in an organization, causes, coerces or forces a minor or student to engage in or endure any of the following:

1. Sexual humiliation or brutality, including forced nudity or an act of sexual penetration, or both.

2. Conduct or conditions, including physical or psychological tactics, that are reasonably calculated to cause severe mental distress to the minor or student, including activities that are reasonably calculated to cause the minor or student to harm themselves or others.

3. The consumption of any food, nonalcoholic liquid, alcoholic liquid, drug or other substance that poses a substantial risk of death, physical injury or emotional harm.

4. An act of restraint, confinement in a small space or significant sleep deprivation.

5. Conduct or conditions that violate a federal or state criminal law and that pose a substantial risk of death or physical injury.

6. Physical brutality or any other conduct or conditions that pose a substantial risk of death or physical injury, including whipping, beating, paddling, branding, electric shocking, placing harmful substances on the body, excessive exercise or calisthenics or unhealthy exposure to the elements.

B. This section does not apply to reasonable and customary athletic, law enforcement or military training, contests, competitions or events.

C. A person may not be charged with or prosecuted for hazing or for a crime arising out of hazing if the evidence for the violation was gained solely as a result of either of the following:

1. The person transported the minor or student who was experiencing a medical emergency to a law enforcement agency, campus security office or health care facility.

2. The person, promptly and in good faith, reported the medical event caused by the hazing to a law enforcement officer, 911 or E911 service, campus security officer or emergency services personnel and the person reasonably believed that the minor or student needed immediate medical attention that was necessary to prevent the death of or serious physical injury to the minor or student. This paragraph applies only to a person to whom all of the following apply:
(a) IF PHYSICALLY CAPABLE, THE PERSON PROVIDED THE PERSON'S NAME AND THE LOCATION OF THE MINOR OR STUDENT WHO WAS IN NEED OF MEDICAL ATTENTION.

(b) THE PERSON REMAINED WITH THE MINOR OR STUDENT UNTIL A LAW ENFORCEMENT OFFICER, CAMPUS SECURITY OFFICER OR EMERGENCY SERVICES PERSONNEL ARRIVED.

(c) THE PERSON COOPERATED WITH LAW ENFORCEMENT, CAMPUS SECURITY OR EMERGENCY SERVICES PERSONNEL.

D. SUBSECTION C OF THIS SECTION DOES NOT DO ANY OF THE FOLLOWING:

1. PROHIBIT CHARGING OR PROSECUTING A PERSON FOR A VIOLATION OF THIS SECTION IF LAW ENFORCEMENT OBTAINS EVIDENCE OF THE VIOLATION BEFORE OR INDEPENDENT OF THE PERSON'S ACT OF SEEKING OR OBTAINING MEDICAL ASSISTANCE PURSUANT TO SUBSECTION C OF THIS SECTION.

2. PROHIBIT THE ADMISSION OF EVIDENCE IN CONNECTION WITH AN INVESTIGATION AND PROSECUTION FOR ANY OTHER CRIME THAT IS NOT PROHIBITED BY SUBSECTION C OF THIS SECTION.

3. PROHIBIT THE ADMISSION OF EVIDENCE IN CONNECTION WITH THE INVESTIGATION AND PROSECUTION OF A VIOLATION OF THIS SECTION AGAINST ANOTHER PERSON WHO IS NOT IMMUNE FROM PROSECUTION PURSUANT TO SUBSECTION C OF THIS SECTION.

E. IT IS NOT A DEFENSE TO HAZING IF EITHER OF THE FOLLOWING APPLIES:

1. THE VICTIM OR PERSON AGAINST WHOM THE HAZING WAS DIRECTED, ACQUIESCED OR CONSENTED, WHETHER IMPLIED OR EXPRESSED, TO THE CONDUCT.

2. THE CONDUCT WAS SANCTIONED OR APPROVED BY THE ORGANIZATION OR THE EDUCATIONAL INSTITUTION OR THE CONDUCT WAS TRADITIONAL AND CUSTOMARY, OR BOTH.

F. HAZING IS A CLASS 1 MISDEMEANOR, EXCEPT THAT IF THE HAZING RESULTS IN A PERSON'S DEATH IT IS A CLASS 4 FELONY.

G. FOR THE PURPOSES OF THIS SECTION, "ORGANIZATION" MEANS ANY OFFICIAL FRATERNITY, SORORITY, ASSOCIATION, CORPORATION, ORDER, SOCIETY, CORPS, COOPERATIVE, CLUB, SERVICE GROUP, SOCIAL GROUP, BAND, SPIRIT GROUP, ATHLETIC TEAM OR SIMILAR GROUP WHOSE MEMBERS ARE PRIMARILY STUDENTS AT, OR FORMER STUDENTS OF, A HIGH SCHOOL OR POSTSECONDARY INSTITUTION.

13-1216. Hazing planning or organizing; classification

A. A PERSON COMMITS HAZING PLANNING OR ORGANIZING BY DOING ANY OF THE FOLLOWING:

1. WITH THE INTENT TO PROMOTE OR AID THE COMMISSION OF HAZING, THE PERSON AGREES WITH ONE OR MORE PERSONS THAT AT LEAST ONE OF THEM OR ANOTHER PERSON WILL ENGAGE IN HAZING AND ONE OF THE PARTIES COMMITS AN OVERT ACT IN FURTHERANCE OF HAZING.

2. INTENTIONALLY OR KNOWINGLY ENGAGES IN CONDUCT THAT WOULD CONSTITUTE HAZING IF THE ATTENDANT CIRCUMSTANCES WERE AS THE PERSON BELIEVES THEM TO BE.
3. Intentionally or knowingly does anything that, under the circumstances as the person believes them to be, is any step in a course of conduct planned to culminate in committing hazing.

4. Intentionally or knowingly engages in conduct that is intended to aid another to commit hazing, although the hazing is not committed or attempted by the other person, if the person’s conduct would establish the person’s complicity under chapter 3 of this title and the hazing was committed or attempted by the other person.

B. A person may not be charged with or prosecuted for a violation of this section if the person, in writing, transmits to the others involved in the hazing or hazing planning or organizing a complete and voluntary renunciation of the person’s criminal intent or takes active steps to thwart the planned hazing from occurring.

C. A violation of this section is a class 2 misdemeanor.

Sec. 2. Section 15-2301, Arizona Revised Statutes, is amended to read:

15-2301. Hazing prevention policies; definitions
A. Every public educational institution in this state shall adopt, post and enforce a hazing prevention policy. The hazing prevention policy shall be printed in every student handbook for distribution to parents and students. Each hazing prevention policy shall include:
1. A definition of hazing pursuant to subsection C, paragraph 2 of this section.
2. A statement that hazing is prohibited.
3. A statement that any solicitation to engage in hazing is prohibited.
4. A statement that aiding and abetting another person who is engaged in hazing is prohibited.
5. A statement that it is not a defense to a violation of the hazing prevention policy if the hazing victim consented to or acquiesced in the hazing activity.
6. A statement that all students, teachers and staff shall take reasonable measures within the scope of their individual authority to prevent violations of the hazing prevention policy.
7. A description of the procedures for students, teachers and staff to report violations of the hazing prevention policy and the procedures to file a complaint for a violation of the hazing prevention policy.
8. Procedures to investigate reports of violations of the hazing prevention policy and to investigate complaints for a violation of the hazing prevention policy.
9. A description of the circumstances under which a violation of the hazing prevention policy shall be reported to the appropriate law enforcement agency.
10. A description of appropriate penalties, sanctions and appeals mechanisms for persons and organizations that violate the hazing prevention policy. The sanctions shall include the revocation or suspension of an organization's permission to conduct operations at the educational institution if the organization knowingly permitted ALLOWED, authorized or condoned the hazing activity. Any teacher or staff who knowingly permitted ALLOWED, authorized or condoned the hazing activity is subject to disciplinary action by the educational institution.

B. Violations of hazing prevention policies adopted pursuant to this section do not include either of the following:

1. Customary athletic events, contests or competitions that are sponsored by an educational institution.

2. Any activity or conduct that furthers the goals of a legitimate educational curriculum, a legitimate extracurricular program or a legitimate military training program.

C. For purposes of this section:

1. "Educational institution" means any of the following:
   (a) A public school that provides instruction to pupils in any combination of kindergarten programs and grades one through twelve.
   (b) A public community college or a vocational education program that provides academic instruction or training not exceeding two years' duration in the arts, sciences and humanities beyond the twelfth grade of the public or private high school course of study.
   (c) Any public college or university that provides academic instruction beyond the twelfth grade of the public or private high school course of study and that offers any combination of baccalaureate, master's or doctoral degrees to students that complete specified academic requirements.

2. "Hazing" means any intentional, knowing or reckless act committed by a student, whether individually or in concert with other persons, against another student, and in which both of the following apply:
   (a) The act was committed in connection with an initiation into, an affiliation with or the maintenance of membership in any organization that is affiliated with an educational institution.
   (b) The act contributes to a substantial risk of potential physical injury, mental harm or degradation of causes physical injury, mental harm or personal degradation AN ACT IN VIOLATION OF SECTION 13-1215 OR 13-1216.

3. "Organization" means an athletic team, association, order, society, corps, cooperative, club or other similar group that is affiliated with an educational institution and whose membership consists primarily of students enrolled at that educational institution.
4. "Student" means any person who is enrolled at an educational institution, any person who has been promoted or accepted for enrollment at an educational institution or any person who intends to enroll at or be promoted to an educational institution within the next twelve calendar months. The hazing prevention policy of the educational institution where a person has been accepted for or promoted to enrollment, or where a person intends to enroll or be promoted to within the next twelve calendar months, shall be the effective policy. A person who meets the definition of a student for purposes of this paragraph shall continue to be defined as a student for purposes of this section until the person graduates, transfers, is promoted or withdraws from the educational institution.