

LEGISLATIVE FISCAL ESTIMATE
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, Nos. 84 and 2093
STATE OF NEW JERSEY
219th LEGISLATURE

DATED: JUNE 18, 2020

SUMMARY

- Synopsis:** “Timothy J. Piazza’s Law”; expands scope of hazing activities and increases penalties for hazing resulting in injury; requires institutions of higher education, and public and nonpublic high schools and middle schools to adopt anti-hazing policies.
- Type of Impact:** Annual expenditure and revenue increases to General Fund; annual expenditure and revenue impacts to municipal governments; annual expenditure increases for institutions of higher education.
- Agencies Affected:** Department of Law and Public Safety; the Judiciary; Office of the Public Defender; Department of Corrections; State Parole Board; Institutions of Higher Education; Boards of Education; Nonpublic High Schools and Middle Schools; Municipalities.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Expenditure Increase	Indeterminate
State Revenue Increase	Indeterminate
Local Expenditure Impact	Indeterminate
Local Revenue Impact	Indeterminate
Institutions of Higher Education Expenditure Increase	Indeterminate

- The Office of Legislative Services (OLS) anticipates that the bill will increase annual State operating expenditures and revenues by an indeterminate amount by upgrading hazing that results in bodily injury to a crime of the fourth degree. Currently, hazing is considered a disorderly person offense and cases are adjudicated in municipal courts. The upgraded criminal offense means that the State would now incur costs to prosecute and adjudicate more cases and would receive an indeterminate amount of revenue from court fines and fees. The upgrade of aggravated hazing to a crime of the third degree from a crime of the fourth degree is not expected to have any State expenditure impact as there is a presumption of non-

incarceration for first-time offenders of crimes of the third degree. However, it is noted that the upgraded charge carries a higher potential fine.

- The OLS also determines that the bill will have an indeterminate impact on municipal court revenues and expenditures. While the bill will move cases of hazing that result in bodily harm to superior court, the bill also broadens the scope of hazing activities that are deemed unlawful, which could result in additional cases being heard in municipal court. Accordingly, the OLS is not able to determine the net impact on the number of hazing cases that will be adjudicated in municipal court or the impact of the bill's provisions on municipal costs and revenues.
- The OLS estimates that the bill may also result in indeterminate State and municipal revenue gains as student or fraternal organizations or institutions of higher education that are found to promote or facilitate a person to commit an act of hazing or aggravated hazing would be subject to fines created under the bill.
- The OLS estimates that institutions of higher education in the State may incur costs to provide a program for the enforcement of their policies against hazing and to maintain a report including information on all violations of the institution's anti-hazing policies and federal and State laws related to hazing that are reported to the institutions. Lastly, the OLS notes that information shared informally by the Administrative Office of the Courts indicates that in 2017 and 2018, there were no convictions for hazing or aggravated hazing in the State.

BILL DESCRIPTION

The bill would (1) expand the scope of hazing activities deemed unlawful and increase the penalties for any hazing incidents that result in injury, and (2) require institutions of higher education, and public and nonpublic high schools and middle schools to adopt anti-hazing policies.

Under current law, hazing is a disorderly persons offense, punishable by a term of imprisonment of up to six months, a fine of up to \$1,000, or both. An act is considered aggravated hazing, a crime of the fourth degree punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000, or both, if serious bodily injury results.

The bill leaves in place the disorderly persons hazing offense if no bodily injury occurred, and upgrades it to a crime of the fourth degree if it does occur. Aggravated hazing involving serious bodily injury would be upgraded from a crime of the fourth degree to a crime of the third degree. A crime of the third degree is punishable by a term of imprisonment of three to five years, a fine of up to \$15,000, or both.

The bill also sets forth liability for any student or fraternal organization, or institution of higher education, which knowingly or recklessly promotes or facilitates a person to commit an act of hazing. The entity would be subject to a fine of not more than \$5,000 for each hazing violation and \$15,000 for each aggravated hazing violation.

Immunity from prosecution for any hazing activities would be offered to any person, student, organization, or institution as well as another person acting in concert if 9-1-1 is called or other emergency services contacted. In order for this immunity to apply, the person acting in concert with the caller would have to remain on the scene with a person injured as a result of hazing and cooperate with emergency services upon their arrival.

The bill requires institutions of higher education, boards of education of school districts with a high school or middle school, and the governing board or chief school administrator of a nonpublic high school or middle school, to adopt a written anti-hazing policy. The institutions and

schools would be required to provide a program for the enforcement of the anti-hazing policy and adopt penalties for violations of the policy.

Additionally, for institutions of higher education, they would be required to maintain a report which includes information on all violations of the institution's anti-hazing policy and federal and State laws related to hazing that are reported to the institution. The institution would be required to post the report on the institution's website. The first report posted after the effective date of the bill would include information concerning violations that were reported to the institution for the five consecutive years prior to the bill's effective date, to the extent the institution has retained that information. Thereafter, the report would be updated annually on each January 1.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS determines that this bill will result in indeterminate expenditure and revenue increases to the State and will have indeterminate impacts to local government expenditures and revenues. Institutions of higher education, and public and private schools are anticipated to experience indeterminate, likely marginal, cost increases to meet the bill's provisions about having to adopt a written anti-hazing policy and having a program for its enforcement, including the adoption of penalties for violations of the policy, as many already have such policies and programs in place.

State Government Expenditures: The bill would increase annual State operating expenditures by an indeterminate amount by upgrading hazing that results in bodily injury to a crime of the fourth degree. Currently, hazing is considered a disorderly person offense and cases are adjudicated in municipal courts. The following State agencies would incur caseload and expenditure increases: a) the Department of Law and Public Safety would have to prosecute additional cases; b) the Judiciary would have to adjudicate additional complaints; c) the Office of the Public Defender would have to represent additional low-income criminal defendants; d) the Department of Corrections (DOC) would potentially have to house and care for more individuals who are sentenced to longer prison terms; and e) the State Parole Board would potentially have to supervise the return to society of additional convicts.

The OLS has no information on the additional caseload and expenditures that the bill may impose on affected State departments and agencies as the number of hazing crimes that will be committed is unknown. Regarding incarceration, the OLS notes that there is a presumption of non-incarceration for first-time offenders of crimes of the third and fourth degrees. If the bill results in certain individuals being incarcerated in State facilities, the DOC would incur additional costs. Data previously obtained from the DOC indicated that the average annual cost to house an inmate in a State prison facility during FY 2019 totaled \$50,590. However, the OLS notes that because the DOC is currently experiencing a reduction in the State-sentenced prison population, the department should be able to house any additional inmates attributable to the bill within its current institutional facilities at a much lower marginal cost of \$8.74 per day, or \$3,190 annually, per inmate for food, wages, and clothing.

Local Government Expenditures: The OLS believes that this bill will affect the annual caseloads and operating expenditures of municipal courts and prosecutors' offices in an indeterminate manner. For one, the bill maintains a disorderly persons offense for hazing if no bodily injury occurred, but it broadens the scope of hazing activities that are deemed unlawful. Since disorderly persons offenses are adjudicated in municipal courts, this would have the effect of increasing the caseloads and operating expenditures of municipal courts and prosecutors' offices. However, the annual caseloads of municipal courts and prosecutors' offices may decrease as a result of certain acts of hazing resulting in bodily injury being made a crime of the fourth degree and therefore being adjudicated in State courts. The OLS is unable to determine the net impact of the bill on municipal court caseloads and therefore the direction and magnitude of the expenditure impact.

State and Local Government Revenues: Any additional State cost attributable to the bill may be offset, in part, by additional and larger fines and penalties imposed by the courts on defendants convicted of having committed the upgraded crimes; however, the State's ability to collect criminal fines and penalties has historically been limited. The State will experience a revenue increase as a result of the upgrade to a crime of the fourth degree of a hazing offense in which bodily injury occurs and the upgrade of an aggravated hazing offense involving serious bodily injury to a crime of the third degree from a crime of the third degree. The OLS notes that a crime of the fourth degree is punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000, or both; meanwhile, a crime of the third degree is punishable by a term of imprisonment of three to five years, a fine of up to \$15,000, or both.

Under the bill, municipalities and the State will also experience revenue increases as a result of cases in which fines are issued to student or fraternal organizations or institutions of higher education that knowingly or recklessly promote or facilitate a person to commit an act of hazing (\$5,000 for each violation) or aggravated hazing (\$15,000 for each violation).

Institutions of Higher Education Expenditures: The OLS estimates that institutions of higher education in the State may incur costs to provide a program for the enforcement of their policies against hazing and to maintain a report including information on all violations of the institution's anti-hazing policies and federal and State laws related to hazing that are reported to the institutions.

Section: Education

*Analyst: Christopher Myles
Assistant Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).