

FISCAL NOTE
 [Second Reprint]
 SENATE COMMITTEE SUBSTITUTE FOR
SENATE, Nos. 84 and 2093
STATE OF NEW JERSEY
219th LEGISLATURE

DATED: JUNE 29, 2021

SUMMARY

- Synopsis:** Requires institutions of higher education and public and nonpublic high schools and middle schools to adopt anti-hazing policies; expands activities encompassing criminal hazing and upgrades penalties for engaging in these activities.
- Type of Impact:** Annual State expenditure and revenue increases; annual expenditure and revenue decreases for municipalities; annual expenditure increases for institutions of higher education and local school districts
- Agencies Affected:** Department of Law and Public Safety; the Judiciary; Office of the Public Defender; Department of Corrections; State Parole Board; Municipalities; Public and Independent Institutions of Higher Education; Local School Districts

Judicial Branch Estimate

Annual Fiscal Impact	
Judiciary Expenditures	Indeterminate
Judiciary Revenue	Indeterminate

Office of Legislative Services Estimate

Annual Fiscal Impact	
State Expenditure Increase	Indeterminate
State Revenue Increase	Indeterminate
Municipal Expenditure Decrease	Indeterminate
Municipal Revenue Decrease	Indeterminate
Institutions of Higher Education Expenditure Increase	Indeterminate
Local School District Expenditure Increase	Indeterminate

- The Office of Legislative Services (OLS) concurs with the Judiciary that it is not possible to determine the impact the bill would have on Judiciary revenue or expenditures but that any impact is likely to be minimal.
- The OLS estimates that this bill would increase annual State operating expenditures by an indeterminate amount by upgrading certain acts of hazing to crimes of the fourth degree if they result in bodily injury to another person and to crimes of the third degree if they result in death or serious bodily injury to another. The bill also broadens the scope of hazing offenses. Currently, hazing is considered a disorderly persons offense and cases are adjudicated in municipal courts. The upgraded criminal offenses mean 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 OLS finds that public institutions of higher education, independent institutions of higher education, boards of education of local school districts with a high school or middle school, and nonpublic high schools and middle schools may incur costs to provide a program for the enforcement of policies against hazing. Public and independent institutions of higher education may incur additional costs 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.
- The bill may also result in indeterminate State 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.

BILL DESCRIPTION

This bill requires public and independent institutions of higher education and public and nonpublic high schools and middle schools to adopt anti-hazing policies; expands the activities that encompass criminal hazing; and upgrades the penalties for engaging in these activities.

The bill requires public and independent 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 school with a high school or middle school, to adopt a written anti-hazing policy. The institutions and schools are required to provide a program for the enforcement of the anti-hazing policy and adopt penalties for violations of the policy.

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

Under current law, hazing is generally described as conduct, other than competitive athletic events, which places or may place another person in danger of bodily injury. This bill would broaden the types of activities that would be considered hazing and provide that an actor who commits the crime of hazing is guilty of a crime of the third degree if the act results in death or

serious bodily injury to another, and is guilty of a crime of the fourth degree if it results in bodily injury to another person. Otherwise, hazing is a disorderly persons offense. 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; 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; and a disorderly persons offense is punishable by a term of imprisonment of up to six months, a fine of up to \$1,000, or both.

The bill provides that a student or fraternal organization or an institution of higher education that knowingly or recklessly promotes or facilitates a person to commit an act of hazing will be subject to a fine of between \$1,000 and \$5,000 for an initial violation and a fine of between \$5,000 and \$15,000 for a subsequent violation.

FISCAL ANALYSIS

JUDICIAL BRANCH

Although the Judiciary did not provide a fiscal note on this version of the bill, it did submit a fiscal note on a prior version of the bill indicating that it is unable to estimate with any certainty the impact this bill would have on the court system (e.g. - number of new cases, impact on pleas, impact on trial rate, etc.). As a result, the Judiciary is unable to determine the impact the bill would have on Judiciary revenue or expenditures.

However, data collected from Promis/Gavel (the Judiciary's automated criminal case tracking system), indicates that in calendar years 2018, 2019 and 2020 there were no convictions for disorderly persons hazing and no convictions for fourth-degree aggravated hazing. As a result, upgrading these offenses/crimes would likely have minimal impact on judicial resources.

OFFICE OF LEGISLATIVE SERVICES

The OLS concurs with the Judiciary that it is not possible to determine the impact the bill would have on Judiciary revenue or expenditures but that any impact is likely to be minimal.

The OLS estimates that this bill may result in various expenditure and revenue impacts to various State and local government entities and that these impacts are likely to be marginal. The State could have higher expenditures and revenues under the bill while municipal expenditures and revenues would decrease as certain cases will now be prosecuted and adjudicated in State court rather than municipal court. The extent of these expenditure and revenue impacts is unknown and will be a factor of the number of instances of criminal hazing occurring annually. However, the OLS notes information provided by Judiciary that indicated that in calendar years 2018, 2019 and 2020 there were no convictions for disorderly persons hazing and no convictions for fourth-degree aggravated hazing.

State Government Expenditures: The bill would increase annual State operating expenditures by an indeterminate amount by upgrading certain acts of hazing to crimes of the fourth degree if they result in bodily injury to another person and to crimes of the third degree if they result in death or serious bodily injury to another. Currently, a person commits the disorderly persons offense of hazing if, in connection with initiation of applicants to or members of a student or fraternal organization, the person knowingly or recklessly organizes, promotes, facilitates, or engages in any conduct, other than competitive athletic events, which places or may place another person in danger of bodily injury. A disorderly persons offense is punishable by a term of imprisonment of up to six months, a fine of up to \$1,000, or both.

Currently, hazing is considered a disorderly persons offense and cases are adjudicated in municipal courts. The following State agencies could potentially incur caseload and expenditure increases under the upgraded offenses: 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 obtained from the DOC indicate that the average annual cost to house an inmate in a State prison facility during FY 2019 totaled \$50,191. 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 \$8.60 per day, or \$3,139 annually, per inmate for food, wages and clothing.

Local Government Expenditures: The OLS anticipates the bill will reduce the annual caseloads and operating expenditures of municipal courts and prosecutor offices because certain acts of hazing that otherwise may have been adjudicated in municipal courts as disorderly persons offenses will now be adjudicated in State courts. Under the provisions of the bill, however, hazing offenses that do not result in bodily injury, serious bodily injury, or death would be disorderly persons offenses and therefore still adjudicated in municipal courts.

State 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 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, 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 (between \$1,000 and \$5,000 for each initial violation and between \$5,000 and \$15,000 for each subsequent violation).

Institutions of Higher Education And School Expenditures: The OLS also finds that public institutions of higher education, independent institutions of higher education, boards of education of local school districts with a high school or middle school, and nonpublic high schools and middle schools may incur costs to provide a program for the enforcement of policies against hazing. Public and independent institutions of higher education may incur additional costs 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

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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.).