



www.lsc.ohio.gov

OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

S.B. 126
134th General Assembly

Fiscal Note & Local Impact Statement

[Click here for S.B. 126's Bill Analysis](#)

Version: As Introduced

Primary Sponsors: Sens. Kunze and Gavarone

Local Impact Statement Procedure Required: No

Jason Glover, Budget Analyst, and other LBO staff

Highlights

- The bill may increase the administrative costs of state institutions of higher education to (1) update and then carry out policies regarding hazing, (2) report violations of the policy, and (3) provide students with an anti-hazing educational program and provide anti-hazing training to all staff and volunteers of organizations recognized by or operating under the sanction of the institutions.
- The bill may also increase the administrative costs of the Department of Higher Education to adopt a statewide educational plan for preventing hazing at institutions of higher education.
- The bill's changes to the criminal offense of hazing may have a minimal net annual fiscal effect on local criminal and juvenile justice systems. A relatively small number of new cases requiring adjudication may be filed or shift from one court to another based on the possible penalty enhancements included in the bill.
- A small number of additional offenders may be sentenced annually to a state prison or juvenile correctional facility. The fiscal effect would be no more than a minimal annual increase in the GRF institutional operating expenses of the departments of Rehabilitation and Correction and Youth Services.

Detailed Analysis

The bill changes the laws governing disciplinary policies and procedures with respect to hazing at public and private institutions of higher education. It also enhances the criminal penalties for a hazing violation and creates several additional hazing-related offenses.

State institutions of higher education

Anti-hazing policies and violation reporting

The bill requires each public and private institution of higher education to adopt an anti-hazing policy and publish it on its website. The policy must include rules prohibiting hazing; a method to enforce the policy; and penalties for such behavior, including fines, the withholding of a diploma or transcript, revocation of permission for an organization to operate on campus, probation, suspension, dismissal, and expulsion. It appears that most state institutions of higher education have policies in place that are similar to the policy required in the bill. Those state institutions of higher education that have not adopted a policy that meets the bill's requirements may incur some administrative costs to implement and enforce such a policy.

Beginning with the 2022-2023 academic year, the bill also requires each public or private institution of higher education to report all violations of its anti-hazing policy on its website. The report must include the name of any organization charged with violating the institution's anti-hazing policy or state law regarding hazing, the date and general description of the violation, any investigation and findings by the institution and any penalties imposed, and the date on which the matter was resolved. The initial report must include information on any incidents of hazing during the last five years and must be completed by January 15, 2023, and updated twice a year thereafter. State institutions of higher education may incur some administrative costs to develop and maintain the report of violations.

Hazing educational program

Additionally, public and private institutions of higher education must provide students with an in-person or online educational program on hazing, including at least one opportunity for students to complete the program during a new student orientation session. Each institution must verify each student's attendance at the program. The bill prohibits a student who does not attend the program from participating in an organization recognized by or operating under the sanction of the institution. Each institution must also provide anti-hazing training for all staff and volunteers of these organizations. State institutions of higher education may incur some costs to develop the education programs and ensure that students, staff, and volunteers have received the mandatory training. Costs will vary depending on how the educational program and training are administered. Some institutions may already offer similar hazing prevention and education programs.

Department of Higher Education model policy and training guidelines

The bill may increase the administrative costs of the Department of Higher Education by requiring the Chancellor of Higher Education to develop and disseminate a statewide educational plan for preventing hazing at public and private institutions of higher education, which must include a model anti-hazing policy and guidelines regarding anti-hazing education and training for all students, employees of the institution, and organizations recognized by or operating under the sanction of the institution.

Criminal penalty for hazing and hazing-related behavior

The bill revises the definition of the criminal offense of "hazing." The bill adds "causing, forcing, [or] soliciting" to "any act or coercing another, including the victim" (as under current

law) to the prohibited acts. The bill also replaces the act of initiation into any student or other organization that causes or creates a substantial risk of causing mental or physical harm to any person with more specific criteria. This includes any act causing, forcing, soliciting, or coercing another, including the victim, to do one or more of three specific acts for the purposes of initiating, admitting, or affiliating an individual into or with an organization; continuing or enhancing an individual's membership or status in an organization; or perpetuating or furthering a tradition or ritual of an organization.¹

The bill analysis provides a detailed description of the various changes to existing law in regards to the act of "hazing" as well as the various new offenses including aggravated hazing, supporting hazing, and failure to report hazing. Penalties generally range from a fourth degree misdemeanor to a second degree felony depending on the offense and under what circumstances the offense occurred.

By expanding the definition of hazing and the creation of new hazing-related offenses, criminal conduct that may be more difficult to prosecute under current law will likely become somewhat easier to prosecute. As a result, the bill may lead to additional cases for criminal justice systems to prosecute and adjudicate. In addition, some individuals may face more severe sanctions for hazing offenses. Since no statewide tabulation of hazing charges is readily available, it is problematic to estimate the number of these cases that could be elevated from a lower level offense to a higher level misdemeanor or felony offense or how many additional cases may be created in Ohio courts.

Based on several national surveys, it appears that hazing incidents often go unreported to law enforcement authorities. In 2007, two University of Maine professors conducted a national study of hazing among nearly 11,500 college students. The survey found that 55% of college students involved in various student organizations or teams experienced hazing, but that 95% of those individuals did not report the event to campus officials.²

In order to examine statistics focused on Ohio, LBO staff contacted the Office of Criminal Justice Services (OCJS) to obtain available data on hazing incidents from the Ohio Incident Based Reporting System (OIBRS).³ In 2018, OCJS found three reported alleged criminal incidents of hazing. For 2019, there were ten incidents reported. The OIBRS data would not include incidents reported directly to a prosecutor. It should also be noted that if charges were filed for a hazing

¹ Those acts include any of the following: (1) violating federal or state criminal law, (2) consuming any food, liquid, alcohol or drug of abuse, or other substance which subjects the victim to a substantial risk of emotional or physical harm, or (3) causing substantial risk of emotional harm to another.

² Allan, Elizabeth J. and Madden, Mary. *Hazing in View: College Students at Risk: Initial Findings from the National Study of Student Hazing*. March 2008, accessible online at https://www.stophazing.org/wp-content/uploads/2014/06/hazing_in_view_web1.pdf.

³ OIBRS is a voluntary reporting program in which Ohio law enforcement agencies can submit crime statistics directly to the state and federal government. At this time, the number of law enforcement agencies submitting data to OIBRS represents approximately 80% of the population. OIBRS does not reflect final charging data or eventual sentencing, but it may provide a sense of the overall number of violations of an offense.

incident that resulted in the death or physical injury of a student or students, it would typically be listed as a higher level offense and multiple charges may have been filed.

Adjudication data from the Ohio Courts Network was also examined and the pattern of cases was similar to those found in OIBRS: relatively small numbers of hazing cases adjudicated statewide annually. Of those that were adjudicated, most were tied to multi-offender events in which the victim was seriously injured or died.

Local fiscal effects

The bill's penalty enhancements and the possibility of additional cases may increase the annual costs that a common pleas, municipal, or county court incurs in processing cases, as it may extend the time and effort required to prosecute, defend, and adjudicate them. Some of the additional costs could be offset with additional fine revenues. Also, some cases may shift from a lower level court (municipal or county) to that of a court of common pleas if the charges related to the hazing case rise from a misdemeanor to a felony under the bill. Elevating such cases could simultaneously: (1) increase county criminal justice system expenditures related to investigating, prosecuting, adjudicating, defending (if the offender is indigent), and sanctioning certain offenders, while decreasing analogous municipal criminal justice system expenditures, and (2) generate additional court cost and fine revenues for counties, while causing a loss in analogous municipal court cost and fee, and fine revenues. Since there are likely to be relatively few cases affected by the bill, any associated fiscal effects are likely to be minimal.

State fiscal effects

As a result of the bill's penalty changes, additional offenders could be sentenced to a state prison, juvenile correctional facility, or community control sanctions. The annual incarceration/supervision costs for the Department of Rehabilitation and Correction (DRC) are likely to be no more than minimal. This is because a relatively small increase in an existing prison population of about 44,000 does not generate a significant increase in DRC's annual GRF-funded incarceration expenditures. In FY 2020, DRC's annual cost per inmate averaged \$30,558 (\$83.72 average cost per day x 365 days).⁴ DRC's marginal annual cost of adding a relatively small number of additional offenders to that population is lower, between \$3,000 and \$4,000 per offender per year.

The Department of Youth Services' (DYS) average daily population is currently 463.⁵ The marginal cost to add a juvenile to that population is around \$33 per day, or about \$12,000 per year. This suggests that adding a relatively small number of juveniles to that population in any given year will result in no more than a minimal increase in DYS's annual institutional care and custody costs.

A few additional felony and misdemeanor convictions stemming from the bill may generate a negligible annual amount of state court cost revenue that is collected locally and

⁴ Ohio Department of Rehabilitation and Correction, monthly fact sheet, February 2021, accessible online at <https://drc.ohio.gov/Portals/0/Feb%202021%20Fact%20Sheet.pdf>.

⁵ Ohio Department of Youth Services, monthly fact sheet, March 2021, accessible online at <https://www.dys.ohio.gov/static/About+DYS/Communications/Reports/Monthly+Fact+Sheets/DYS+Monthly+Fact+Sheet+March+2021.pdf>.

forwarded for deposit to the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020). State court costs for a felony total \$60, of which Fund 5DY0 and Fund 4020 each receive \$30. Such costs for a misdemeanor total \$29, of which Fund 5DY0 receives \$20 and Fund 4020 receives \$9.