

SUBJECT: Including law enforcement among the entities to receive reports of hazing

COMMITTEE: Higher Education — favorable, without amendment

VOTE: 10 ayes — Murphy, Pacheco, Cortez, Frullo, Muñoz, Ortega, Parker,
Raney, C. Turner, J. Turner

0 nays

1 absent — P. King

SENATE VOTE: On final passage, April 8 — 29-1 (Hughes)

WITNESSES: None

BACKGROUND: Education Code sec. 37.152 establishes that a person commits the offense of personal hazing if the person:

- engages in hazing;
- solicits, encourages, directs, aids, or attempts to aid another in engaging in hazing;
- recklessly permits hazing to occur; or
- has firsthand knowledge of the planning of a specific hazing incident involving a student in an educational institution, or has firsthand knowledge that a specific hazing incident has occurred, and knowingly fails to report that knowledge in writing to the dean of students or other appropriate official of the institution.

The offense of failing to report is a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000).

Sec. 37.155 states that a court may grant immunity from prosecution for the offense to each person who is subpoenaed to testify for the prosecution and who does testify for the prosecution. Any person who voluntarily reports a specific hazing incident involving a student in an educational

institution to the dean of students or other appropriate official of the institution is immune from civil or criminal liability that might otherwise be incurred or imposed as a result of the reported hazing incident if the person reports the incident before being contacted by the institution concerning the incident or otherwise being included in the institution's investigation of the incident.

Concerns have been raised about a lack of clarity in provisions of anti-hazing laws passed by the 86th Legislature that were intended to incentivize the reporting of hazing incidents by granting civil and criminal immunity to persons who voluntarily report hazing and cooperate with investigations. It has been suggested that additional legislation related to the reporting of hazing, including adding a peace officer or a law enforcement agency to the entities to whom a hazing report could be made, is needed to clarify anti-hazing laws and encourage reporting.

DIGEST: SB 36 would include a peace officer or a law enforcement agency among the entities to whom a report could be made regarding a personal hazing offense under Education Code sec. 37.152.

The bill would repeal the requirement that the report of the offense be made by the person in writing.

Immunity from prosecution. The bill would provide immunity from civil or criminal liability that could otherwise be incurred or imposed as a result of a reported hazing incident if the person reported the incident before being contacted by the institution or a law enforcement agency concerning the incident or otherwise being included in the institution's or a law enforcement agency's investigation of the incident and cooperated in good faith.

The bill also would revise statutory provisions to extend immunity from criminal or civil liability to a person who voluntarily reported a hazing incident to:

- specify that the dean of students or other appropriate official of the

institution made the determination regarding good faith cooperation with an investigation;

- include cooperation in good faith with any law enforcement agency's investigation, as determined by the chief or other appropriate official of the law enforcement agency designated by the law enforcement agency.

The bill would take effect September 1, 2021, and would apply only to an offense committed or a civil cause of action that accrued on or before the effective date.