

## **BILL ANALYSIS**

S.B. 38  
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Higher Education  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Concerns have been raised regarding the continuing prevalence of hazing at postsecondary educational institutions, despite the efforts of law enforcement and university administrators. There are calls to address various issues related to this topic, such as a need for greater clarity regarding what conduct constitutes hazing and regarding certain immunity provisions for witnesses. S.B. 38 seeks to answer these calls by revising the statutory definition of hazing, amending immunity provisions, specifying the venues in which perpetrators may be prosecuted, and strengthening certain reporting requirements.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

S.B. 38 amends the Education Code to revise the definition of "hazing" by including in that definition an act involving coercing a student to consume an alcoholic beverage, liquor, or drug, by applying the Penal Code definition of "coercion" to that included act, and by removing an activity that has the following characteristics:

- intimidates or threatens the student with ostracism;
- subjects the student to extreme mental stress, shame, or humiliation;
- adversely affects the mental health or dignity of the student or discourages the student from entering or remaining registered in an educational institution; or
- may reasonably be expected to cause a student to leave the organization or the institution rather than submit to such acts.

S.B. 38, for purposes of the granting of immunity from civil or criminal liability to a person reporting a specific hazing incident, specifies that such a grant is for a person who voluntarily reports the incident and conditions the grant of immunity on the person reporting the hazing incident before being contacted by the institution concerning the incident or otherwise being included in the institution's investigation of the incident and on the person cooperating in good faith throughout any institutional process regarding the incident, as determined by the dean of students or other appropriate official of the institution designated by the institution. The bill excludes a person who reports the person's own act of hazing from being eligible for such immunity.

S.B. 38, for purposes of establishing the venue for prosecution of a hazing offense, authorizes such prosecution in a county in which the educational institution campus at which a victim of the offense is enrolled is located, if the applicably authorized prosecuting attorney consents, or in any county in which the offense may be prosecuted under other law.

S.B. 38 requires each postsecondary educational institution, not later than January 1, 2020, to develop and post in a prominent location on the institution's website a report on hazing committed on or off campus by an organization registered with or recognized by the institution and sets out the required contents of the report. The bill requires the report to be updated to include information regarding each disciplinary process or conviction not later than the 30th day after the date on which the disciplinary process is resolved or the conviction becomes final, as applicable. The bill prohibits the report from including personally identifiable student information and requires the report to comply with the federal Family Educational Rights and Privacy Act of 1974.

S.B. 38 requires each institution to provide to each student who attends the institution's student orientation a notice regarding the nature and availability of the report, including the report's website address. The bill, for purposes of the requirement that each institution distribute to students during the first three weeks of each semester summarized provisions regarding hazing and a list of organizations disciplined or convicted for hazing during the preceding three years, replaces the requirement to distribute the list of organizations with a requirement to distribute a copy of, or an electronic link to a copy of, the report and makes the 14th day before the first class day of each fall or spring semester the deadline for the distribution of the summary and the report copy or link. These provisions apply beginning with the 2020 spring semester.

**EFFECTIVE DATE**

September 1, 2019.