

2C:40-3 to 2C:40-5

LEGISLATIVE HISTORY CHECKLIST
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(Hazing--criminal offense)

NJSA: 2C:40-3 to 2C:40-5

LAWS OF: ~~1994~~ 1980 CHAPTER: 169

BILL NO: A546

SPONSOR(S): Villance and others

DATE INTRODUCED: Pre-filed

COMMITTEE: ASSEMBLY: Judiciary, Law, Public Safety and Defense
SENATE: Judiciary

AMENDED DURING PASSAGE: Yes Amendments denoted by asterisks according to Governor's recommendations

DATE OF PASSAGE: ASSEMBLY: February 25, 1980 Re-enacted 11-24-80
SENATE: June 9, 1980 Re-enacted 11-24-80

DATE OF APPROVAL: December 18, 1980

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: Yes

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

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CHAPTER 169

12-18-80

[SECOND OFFICIAL COPY REPRINT]

ASSEMBLY, No. 546

[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1980 SESSION

By Assemblymen VILLANE, EDWARDS, Assemblywoman MUHLER,
Assemblymen SNEDEKER, SAXTON, LITTELL, ADUBATO,
DEVERIN, LESNIAK, ORECHIO, DOYLE and ALBANESE

AN ACT to establish offenses of hazing and aggravated hazing and
supplementing Title 2C of the New Jersey Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 ***[1. A person who recklessly engages in a method of initiation**
2 **into a student, school, fraternal, or college organization, or in a pas-**
3 **time or amusement involving the organization which creates a**
4 **substantial risk of bodily injury to another person is guilty of**
5 **hazing. Hazing is a disorderly persons offense.]***

1 *1. *Hazing. a. A person is guilty of **hazing,** a disorderly*
2 *persons offense**, if, in connection with **initiation of appli-*
3 *cants to or members of** a student **or fraternal** organization,*
4 *he **knowingly or recklessly organizes,** promotes, facilitates or*
5 *engages in **[a method of initiation, pastime or amusement,]***
6 ***any conduct,** other than **[customary contests, competitions*
7 *or]** **competitive** athletic events, which **[is likely to subject*
8 *an applicant to or a member of the organization to a substantial*
9 *risk of bodily injury.]** **places or may place another person in*
10 *danger of bodily injury.***

11 *b. A person is guilty of **aggravated hazing;** a crime of the*
12 *fourth degree**, if he commits an act prohibited in subsection a.*
13 *which **[causes]** **results in** serious bodily injury to **[the*
14 *victim*]** **another person**.*

1 **2. *Notwithstanding any other provision of Title 2C of the New*
2 *Jersey Statutes to the contrary, consent shall not be available as a*
3 *defense to a prosecution under this Act.*

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.

1 3. *Conduct constituting an offense under this Act may, at the*
2 *discretion of the prosecuting attorney, be prosecuted under any*
3 *other applicable provision of Title 2C of the New Jersey Statutes.***

1 ***[2.** A person who recklessly engages in a method of initiation
2 into a student, school, fraternal, or college organization, or in pas-
3 time or amusement involving the organization which causes bodily
4 injury to another person is guilty of aggravated hazing. Aggra-
5 vated hazing is a crime of the fourth degree.]*

1 ***[3.]** ***[*2.*]** ***4.** * This act shall take effect immediately.

ASSEMBLY, No. 546

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1980 SESSION

By Assemblymen VILLANE, EDWARDS, Assemblywoman MUHLER,
Assemblymen SNEDEKER, SAXTON, LITTELL, ADUBATO,
DEVERIN, LESNIAK, ORECHIO, DOYLE and ALBANESE

AN Act to establish offenses of hazing and aggravated hazing and
supplementing Title 2C of the New Jersey Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. A person who recklessly engages in a method of initiation into
2 a student, school, fraternal, or college organization, or in a pas-
3 time or amusement involving the organization which creates a
4 substantial risk of bodily injury to another person is guilty of
5 hazing. Hazing is a disorderly persons offense.

1 2. A person who recklessly engages in a method of initiation into
2 a student, school, fraternal, or college organization, or in pas-
3 time or amusement involving the organization which causes bodily
4 injury to another person is guilty of aggravated hazing. Aggra-
5 vated hazing is a crime of the fourth degree.

1 3. This act shall take effect immediately.

STATEMENT

The purpose of this bill is to make hazing a criminal offense in
New Jersey.

A hazing incident in this State resulted in the death of a 19-year-
old student at Monmouth College in 1974. He was required to dig
a six-foot hole in a beach by his initiators. The hole collapsed and
buried him in the sand. Efforts to save him failed.

There have been 12 hazing-related deaths in the country in the
last 6 years.

The persons responsible for these incidents usually receive little
more than a slap on the wrist. The schools involved disassociate
themselves from fraternity hazing deaths, and disclaim any re-

sponsibility. With respect to the New Jersey incident, the grand jury declined to indict the seven fraternity members who were in charge of the initiation that resulted in the tragic death.

This bill attempts to eliminate the potential for a repetition of the unfortunate hazing-related death in 1974 by making the engaging in hazing itself a criminal offense. It establishes two levels of hazing offenses. A person engaging in a method of initiation into a school or fraternal organization or in pastime or amusement involving the organization which creates a substantial risk of bodily harm to another person would be guilty of hazing. It would be a disorderly persons offense for which the basic penalty is a fine not to exceed \$1,000 or imprisonment for up to 6 months or both. If the initiation, pastime, or amusement caused bodily injury to another person, the offense would be aggravated hazing. It would be a crime of the fourth degree for which the basic penalty is a fine not to exceed \$7,500 or imprisonment for up to 18 months or both.

ASSEMBLY JUDICIARY, LAW, PUBLIC SAFETY AND
DEFENSE COMMITTEE

STATEMENT TO
ASSEMBLY, No. 546
with Assembly committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 21, 1980

The purpose of this bill is to prohibit student organization initiation practices which subject participants to substantial risks of injury or to serious actual injury, and to punish those individuals who conspire and engage in such practices. It would be a fourth degree crime to conspire or engage in such activity if serious bodily injury results, and a disorderly persons offense otherwise.

There have been at least 12 reported hazing-related deaths in the country in the last 6 years, including a 1974 incident in New Jersey at Monmouth College. While hazing is prohibited, to a greater or lesser degree, at all New Jersey schools and colleges, hazing incidents causing serious injuries continue and often go unreported, and unpunished.

Hazing prohibited in this bill includes paddling, creation of excessive fatigue, physical shocks, branding or tattooing, and other such activities whether carried out on or off fraternity property or campus.

Criminal Code provisions against Simple and Aggravated Assault, Harassment, and Disorderly Conduct do not adequately cover the situation where a pledge or other person "consents" to his hazing.

This bill, by making dangerous hazing a criminal offense and bringing it within the criminal justice system, should help in the deterrence and the detection of these incidents.

Committee amendments clarify the focus of the bill by excluding student athletic activities and other ordinary pastimes.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 546

STATE OF NEW JERSEY

DATED: APRIL 21, 1980

The purpose of this bill is to prohibit student organization initiation practices which subject participants to substantial risks of injury or to serious actual injury, and to punish those individuals who conspire and engage in such practices. It would be a fourth degree crime to conspire or engage in such activity if serious bodily injury results, and a disorderly persons offense otherwise.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

November 10, 1980

ASSEMBLY BILL NO. 546

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14(b) of the Constitution, I herewith return Assembly Bill No. 546 with my objections, for your reconsideration.

This bill would establish the offense of Hazing as a disorderly persons offense if the forbidden conduct creates a substantial risk of bodily injury to another person, and as a fourth degree crime if it causes serious bodily injury to the victim. The bill supplements Title 2C of the New Jersey Statutes.

While I agree wholeheartedly with the purpose of this legislation, I am conditionally vetoing it because it suffers from some technical infirmities.

I believe that every criminal statute should specify the degree of culpability required for one to be subjected to prosecution for its violation, or a clear legislative intent to impose strict liability. In this instance, the standard of "knowingly or recklessly" should apply, consistent with overall policy of our Penal Code.

I also believe that the exclusion of "customary contests" from the definition of Hazing in this bill unnecessarily restricts and weakens the definition. I believe that a broader definition, to include any conduct that would endanger another person is more appropriate. I agree, however, with the exclusion of competitive athletic events from the purview of this bill.

Lastly, I recommend the addition of two new sections to specify that consent is not a defense to Hazing, and to make it clear that this Act is not intended to preclude prosecution for an overlapping offense.

Accordingly, I herewith return Assembly Bill No. 546 for reconsideration and recommend that it be amended as follows:

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

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Page 1, Section 1, line 1: After "of" insert "hazing," and after "offense" insert ",",.

Page 1, Section 1, line 2: After "with" insert "initiation of applicants to or members of"; after "student" insert "or fraternal" and after "he" insert "knowingly or recklessly organizes,".

Page 1, Section 1, line 3: After "in" delete "in a method of initiation, pastime or amusement," and insert "any conduct,".

Page 1, Section 1, line 4: After "than" delete "customary contests, competitions or" and insert "competitive".

Page 1, Section 1, line 5: After "which" delete the rest of the line and insert "places or may place another person in danger of bodily injury."

Page 1, Section 1, line 6: Delete in its entirety.

Page 1, Section 1, line 7: After "guilty of" insert "aggravated hazing;" and after "degree" insert ",",.

Page 1, Section 1, line 8: After "which" delete "causes" and insert "results in".

Page 1, Section 1, line 9: After "to" delete "the victim" and insert "another person".

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

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Page 1: Add two new sections after Section 1 as follows:

"2. Notwithstanding any other provision of Title 2C of the New Jersey Statutes to the contrary, consent shall not be available as a defense to a prosecution under this Act.

3. Conduct constituting an offense under this Act may, at the discretion of the prosecuting attorney, be prosecuted under any other applicable provision of Title 2C of the New Jersey Statutes."

Page 1, Section 2, line 1: Delete "2" and insert "4"

Respectfully,

/s/ Brendan Byrne

GOVERNOR

[seal]

Attest:

/s/ Harold L. Hodes

CHIEF OF STAFF, SECRETARY