

LFC Requester:

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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 1/24/25

Check all that apply:

Bill Number: SB 10

Original Correction
Amendment Substitute

Sponsor: Sen. H. Pope

Agency Name and Code Number: 305 – New Mexico Department of Justice

Person Writing

Short Title: Anti-Hazing Act

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis:

Senate Bill 10 seeks to create new criminal and civil penalties for hazing, and would require higher education institutions to undertake new training, policy and reporting measures related to hazing prevention.

This bill defines the behavior which would constitute hazing, and proposes that anyone attending a K-12 or post-secondary education institution who intentionally hazes another could be charged with a misdemeanor criminal offense. Similarly, those in positions of leadership within the educational institution (such as administrators, coaches and faculty) may be subject to a misdemeanor criminal penalty if they knew or reasonably should have known of hazing behavior and failed to report that behavior to law enforcement. Further, any student organization, student group or individual director of such organization who permits hazing may be held liable for damages resulting from such behavior. Additional consequences for hazing may include a forfeiture of an offender’s state-funded grants or scholarships, and the potential loss of official recognition or approval for a violating student organization or association.

SB10 would require post-secondary education institutions to take several additional steps to prevent hazing, including:

- Requiring the prohibition of hazing in the institution’s code of conduct;
- Providing students with a training program regarding hazing awareness, prevention and intervention. Such training should begin as early as new student orientation;
- Delivering training to an institution’s employees, including student employees, regarding the signs and dangers of hazing;
- Mandating the institution’s materials on student rights and responsibilities, including the policy against hazing, be provided to student organizations and athletic teams;
- Establishing a hazing prevention committee to promote and address hazing on campus; and
- Maintaining and annually publicly reporting findings of hazing violations by student organizations and athletic teams.

Specific obligations are created for social fraternity and sorority organizations, requiring those organizations to:

- Notify the post-secondary institution before chartering or rechartering;
- Notify the post-secondary institution when the organization initiates an investigation into a local chapter for suspected hazing activity, and provide the findings to the student conduct office; and
- Certify in writing that all websites maintained by the local chapter contains a full list for the previous five years of all findings of the institution’s anti-hazing policies, or state or federal laws relate to hazing and other misconduct.

Failure by the fraternity or sorority to comply with these requirements mandatorily results in an automatic loss of recognition of the organization until full compliance is reached.

FISCAL IMPLICATIONS

N/A

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

1. The proposed definition of hazing in Section 3(A) of SB10 is different from the definition of hazing utilized in the recently passed federal Stop Campus Hazing Act (S.2901, H.R. 5646), which may create confusion for law enforcement authorities and educational institutions seeking to comply with both statutes.
2. Under Section 3(A), hazing relates to behavior committed as part of a person’s recruitment/initiation/pledging into a “student organization, athletic team or living group...” As there is not an umbrella definition of what constitutes a “student organization” (as is included with the federal Stop Campus Hazing Act), the reach of the criminal hazing prohibition may reasonably be questioned. For example: Does an organization include even an informal or unaffiliated group of individuals? Does athletic team include club/intramural sports or just varsity/NCAA-affiliated athletics? Does living group include fraternities or sororities?
3. Section 5’s requirement that post-secondary institution’s maintain and publicly report findings of hazing (and other enumerated) violations by student organizations appears to be duplicative to the newly-created requirement under the Stop Campus Hazing Act (Section 3 of S.2901, H.R. 5646, amending 20 U.S.C. Section 1092(f)). The timelines and requirements for these transparency reports under federal law are similar, but slightly different than the requirements under SB10.

PERFORMANCE IMPLICATIONS

Section 3(I) states that the New Mexico Department of Justice and the District Attorney in the county of jurisdiction have concurrent jurisdiction to enforce the provisions of this Act.

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A as of the date of this analysis.

TECHNICAL ISSUES

1. Social fraternity and sorority organizations discussed in Section 7 are not defined. Those complying with the statute would benefit from a definition of what distinguishes a “social” fraternity or sorority from other potential fraternities or sororities (such as professional or service fraternities).

OTHER SUBSTANTIVE ISSUES

1. Section 3(B) creates the crime of hazing for those who *intentionally* haze another person. A person acts intentionally if that person’s conscious object is to engage in conduct of that nature, or to cause such a result. State v. Franco, 2019-NMCA-057 ¶ 15 (citing the Model Penal Code). However, it precludes potential prosecution for hazing behavior that is committed *knowingly* (awareness by the offender that it is practically certain that his/her conduct will cause a certain result) or *recklessly* (when the offender consciously disregards a substantial and unjustifiable risk). Model Penal Code, Section 2.02, General Requirements of Culpability.
2. It is unclear if the amnesty provision under Section 6(C) is necessary in light of the creation of a crime for failure to report hazing under Section 3(G). Section 6(C) states that a person who witnesses or has reasonable cause to believe hazing has or will occur shall not be “sanctioned or punished” for the violation if they make a good faith report (unless they are directly engaged in the planning or commission of the hazing behavior). Section 3(G) would make it a criminal offense for someone witnesses or knowing of hazing behavior and failing to report that information to law enforcement. Inherently, therefore, reporting such behavior would *not* subject the person to sanction or punishment. Such a requirement in Section 3(G) may render the amnesty provision in 6(C) superfluous. If the intention is that a good faith report not result in sanctions or punishment from the educational institution for violation of its internal policies (as opposed to the criminal justice system), that should be stated more explicitly.
3. Section 7(C) requires that a local social fraternity or sorority certify in writing that the websites they maintain contain a full list of findings of violations of anti-hazing policies and other federal/state laws within the preceding five years. While the bill suggests that such a requirement should begin during the 2025 fall academic term, it is unclear how often such certification should be made. Consider adding a reporting cadence.

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

N/A