

**Hazing:**

**A Summary of American Legislative Approaches and Resources**

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## **Introduction**

Hazing can be described as activities involving harassment, humiliation or abuse which are utilized to initiate an individual into a group. Hazing can be found in various settings including the military, sports teams, workplaces and educational institutions. This research paper will outline various legislative approaches to the issue of hazing in the United States, provide a list of useful resources and touch on Canadian hazing jurisprudence.

## **Unites States of America**

### **Legislation**

Several states have legislation specifically aimed at outlawing hazing. The statutes generally prohibit any willful acts that recklessly or intentionally endanger the physical health of a student. Some statutes include mental health as a component of hazing; and some include drug and alcohol abuse. Other states do not have specific anti-hazing statutes; instead they continue to apply traditional criminal statutes to the specific aspects of hazing. For example, hazing involving assault can be prosecuted simply as assault. Acts of hazing which endanger lives can be prosecuted as reckless endangerment. The following summaries of American legislation include select states. Nearly every state has hazing legislation of some type and only the states with significant differences have been highlighted.

*Alabama – Code, ss. 16-1-23<sup>1</sup>*

Alabama has enacted legislation making hazing a Class C misdemeanor. The legislation prohibits “[a]ny willful act which recklessly or intentionally endangers the mental or physical health of any student.” It includes willfully striking, beating, bruising or maiming, as well as attempting or threatening such acts. Furthermore, the Code prohibits encouraging, aiding and

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<sup>1</sup> *Alabama Code, Education*, online at: <http://www.legislature.state.al.us/CodeofAlabama/1975/coatoc.htm>.

assisting in hazing. An additional punishment for knowing participation or knowing permission by students or institutions is the forfeiture of, and ineligibility to receive, public funds and scholarships.

*Arkansas – Arkansas Code ss. 6-5-201 to 204*<sup>2</sup>

Arkansas has enacted legislation making hazing a Class B misdemeanor. The statute prohibits the specific act of hazing as well as aiding or assisting in hazing. The statute contains a very broad definition of hazing (6-5-201). Interestingly, an additional punishment is the required expulsion of any convicted student from the educational institution he or she attends.

*Connecticut - Crimes 53-23a*<sup>3</sup>

Connecticut legislation prohibits the endangerment of the health and safety of a person for the purpose of initiation. Individuals may be fined up to \$1,000. Student organizations may be fined \$1500 and they forfeit their rights at the educational institution.

*Colorado – Criminal Code s. 18-9-124*<sup>4</sup>

The Colorado provisions pertaining to hazing recognize that existing criminal law provisions may not be adequate in addressing the health and safety of students. The statute provides that hazing is a Class 3 misdemeanor. It prohibits the reckless endangerment of the health or safety of others for the purposes of initiation.

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<sup>2</sup> *Arkansas Code, Education Section* online at:

<http://www.arkleg.state.ar.us/bureau/Publications/Arkansas%20Code/Title%206.pdf>.

<sup>3</sup> *Connecticut Crimes, Offences Against the Person* online at: <http://www.cga.ct.gov/2009/pub/chap939.htm>.

<sup>4</sup> The Colorado hazing provisions can be found in the following database:

[http://www.michie.com/colorado/lpext.dll?f=templates&fn=main-h.htm&cp=.](http://www.michie.com/colorado/lpext.dll?f=templates&fn=main-h.htm&cp=)

*Delaware – Delaware Code, Title 14, ss. 9301 to 9304*<sup>5</sup>

The Delaware Code makes hazing a Class B misdemeanor. It assumes that initiation is a forced activity. Additionally, all institutions are required to adopt and enforce a written anti-hazing policy.

*Florida – Education Code, s. 1006-63*<sup>6</sup>

The reckless or intentional act of hazing another person resulting in serious bodily injury or death is a third degree felony in Florida. ‘Hazing’ is a first degree misdemeanor when it creates a substantial risk of physical injury or death. The governing provisions require anyone convicted of hazing to participate in a hazing education course. Consent is not considered a defence to hazing. The provisions further require educational institutions to adopt written anti-hazing policies and penalties.

*Idaho – Hazing s. 18-917*<sup>7</sup>

In Idaho, hazing is a misdemeanor. Their Code prohibits members of student organizations from engaging or conspiring to intentionally haze. Hazing is defined as physical harm or danger.

*Illinois – ss. 720 ILCS 120/5 and 720 ILCS 120/10*<sup>8</sup>

Hazing is a Class A misdemeanor unless the hazing results in death or great bodily harm, then it is a Class 4 felony. Legislation in Illinois prohibits the performance of an act by a person

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<sup>5</sup> *Delaware Code, Education, Anti-Hazing Law* online at: <http://delcode.delaware.gov/title14/c093/index.shtml>.

<sup>6</sup> *Florida Education Code* online at: [http://www.flsenate.gov/statutes/index.cfm?App\\_mode=Display\\_Statute&Search\\_String=&URL=Ch1006/Sec63.H.TM](http://www.flsenate.gov/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=Ch1006/Sec63.H.TM).

<sup>7</sup> *Idaho Code* online at: <http://www.legislature.idaho.gov/idstat/Title18/T18CH9SECT18-917.htm>.

<sup>8</sup> *Illinois Compiled Statutes* online at: <http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=1880&ChapAct=720%26nbsp%3BILCS%26nbsp%3B120%2F&ChapterID=53&ChapterName=CRIMINAL+OFFENSES&ActName=Hazing+Act%2E>.

at an educational institution that is not sanctioned by that institution, or the act results in bodily harm to any person.

*Indiana – Code s. 35-42-2-2<sup>9</sup>*

Depending on the severity of the outcome, hazing can be either a misdemeanor or a felony in Indiana. The Code offers immunity for good faith reporting of hazing. Indiana defines hazing as an act required for membership that encompasses a substantial risk of bodily harm.

*Iowa – s. 708.10<sup>10</sup>*

Hazing is a simple misdemeanor unless there is serious bodily injury which makes the offence a serious misdemeanor. Iowa defines hazing as a forced activity which endangers the physical health of a student for the sake of initiation.

*Kansas – s. 21-3434<sup>11</sup>*

Hazing is a Class B misdemeanor in Kansas. Their Code prohibits intentionally demanding or encouraging another person to perform an act, which could reasonably be expected to result in great bodily harm, for initiation purposes.

*Kentucky – Code s. 164.375<sup>12</sup>*

Kentucky legislators have placed the burden for drafting and enacting anti-hazing policies on universities and colleges. The Code states that penalties to be included in such policies are expulsion or suspension. If student organizations are involved in the hazing activities they too may be expelled from operating on campus.

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<sup>9</sup> *Indiana Code* online at: <http://www.in.gov/legislative/ic/code/title35/ar42/ch2.html>.

<sup>10</sup> *Iowa Code* online at: <http://coolice.legis.state.ia.us/Cool-ICE/default.asp?category=billinfo&service=IowaCode&ga=83>.

<sup>11</sup> *Kansas Code* online at: <http://www.kslegislature.org/legsrv-statutes/getStatuteFile.do?number=/21-3434.html>.

<sup>12</sup> *Kentucky Code* online at: <http://www.lrc.ky.gov/KRS/164-00/375.PDF>.

*Louisiana –Code, Title 17, s. 1801*<sup>13</sup>

Louisiana’s hazing provisions prohibit any method of initiation that is likely to cause bodily danger or physical punishment to a student. Punishment includes fines up to \$100 and/or imprisonment terms from 10 days to no more than 30 days, in addition to expulsion from the educational institution.

*Maine – Education Code, Title 20-A, ss. 10004 and 6553*<sup>14</sup>

Maine defines hazing as “any action or situation which recklessly or intentionally endangers the mental or physical health of a student enrolled at an institution in this State”. The penalties and rules for such an offence are to be drafted and enacted by the school board or the board of trustees. The policies will then be disseminated to students.

*Massachusetts - Title 1, Chapter 269, ss. 17 to 19*<sup>15</sup>

An organizer or participant of hazing in Massachusetts is liable to be fined not more than \$3,000 and/or imprisoned not more than one year. Additionally, there are provisions for the failure to report an incident of hazing. Such incidents shall be punished by a maximum fine. Organizations are also responsible to acknowledge annually the receipt of notification of state hazing law.

*Michigan - Anti-Hazing Act, MCL 750.411t*<sup>16</sup>

Michigan prohibits hazing at any educational institution. Hazing is defined as “an intentional, knowing, or reckless act by a person acting alone or with others that is directed against an individual and that endangers the physical health or safety of the individual, done for

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<sup>13</sup> *Louisiana Code* online at: <http://www.legis.state.la.us/lss/lss.asp?doc=79979>.

<sup>14</sup> *Maine Code* online at: <http://www.mainelegislature.org/legis/statutes/20-A/title20-Asec10004.html>.

<sup>15</sup> *Massachusetts Code* online at: <http://www.mass.gov/legis/laws/mgl/269-17.html>.

<sup>16</sup> *Michigan Anti-Hazing Act* online at: [http://www.legislature.mi.gov/\(S\(yovmnyfimmno5155khxpgn55\)\)/mileg.aspx?page=getObject&objectName=mcl-750-411t](http://www.legislature.mi.gov/(S(yovmnyfimmno5155khxpgn55))/mileg.aspx?page=getObject&objectName=mcl-750-411t).

the purpose of pledging, being initiated into, affiliating with, participating in, holding office in, or maintaining membership in any organization.” Consent is not a defence to a charge of hazing in Michigan. Depending on the severity of the crime, the punishment ranges from a misdemeanor to a felony.

*Minnesota – Code, ss. 120B.22, 128C.02 and 121A.69*<sup>17</sup>

Minnesota prohibits acts causing a substantial risk of harm to a student for the purpose of initiation. School boards and school sports leagues must adopt written anti-hazing policies and anti-violence education in accordance with the relevant provisions of the Code.

*Missouri – Code, ss. 578.360, 578.363 and 578.365*<sup>18</sup>

Missouri includes both physical and mental safety in their definition of hazing. Missouri has made general hazing a Class A misdemeanor. However, it is a Class C felony if the act creates a substantial risk to the life of the person. Furthermore, educational institutions must adopt written policies prohibiting hazing by student organizations.

*Nebraska – Revised Statute, ss. 28-311.06 to 28-311.07*<sup>19</sup>

Nebraska has enacted laws making hazing a Class II misdemeanor. Any organization whose members commit hazing may be fined up to \$10,000. Hazing is defined as any activity where an individual intentionally or recklessly endangers the physical or mental safety of another for the purpose of initiation.

*New Hampshire – Criminal Code, ss. 631:7*<sup>20</sup>

Hazing is a Class B misdemeanor in New Hampshire. The offence includes failing to report hazing. Educational institutions may also be charged with a misdemeanor if they

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<sup>17</sup> *Minnesota Code* online at: <https://www.revisor.mn.gov/statutes/?id=121A.69>.

<sup>18</sup> *Missouri Code* online at: <http://www.moga.mo.gov/statutes/c500-599/5780000360.htm>.

<sup>19</sup> *Nebraska Revised Statute* online at: <http://uniweb.legislature.ne.gov/laws/statutes.php?statute=28-311.06>.

<sup>20</sup> *New Hampshire Code*, online at: <http://www.gencourt.state.nh.us/rsa/html/LXII/631/631-7.htm>.

“knowingly permit or condone” hazing or “negligently fail” to take adequate measures to prevent student hazing.

*Ohio – Revised Code, ss. 2903.31 and 2307.44*<sup>21</sup>

Those found guilty of hazing are guilty of a misdemeanor in the fourth degree. Civil liability for hazing extends to local and national directors, trustees and officers who authorized or tolerated hazing. However, educational institutions may use an anti-hazing policy as an affirmative defense. Certain governmental immunity is waived for educational institutions in hazing cases and university officials as well as national fraternity officials may, under certain circumstances, be liable.

*Vermont - 16 V.S.A., ss. 140(a) - (d)*<sup>22</sup>

Hazing is defined as an “intentional, knowing or reckless act committed by a student, whether individually or in concert with others, against another student” in connection with initiation. The statute provides for a civil fine of not more than \$5,000. The consent or acquiescence of the victim is not a defense to a hazing charge.

*Virginia – Code, ss. 18.2-56*<sup>23</sup>

Hazing is a Class 1 misdemeanor, unless the aspect of the act would normally constitute a felony. The definition of hazing in Virginia does not include a connection to initiation. The definition simply states that hazing is “to cause bodily injury, any student at any school, college, or university”. A victim has the right to civil action against offenders regardless of their age.

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<sup>21</sup> *Ohio Revised Code*, online at: <http://codes.ohio.gov/orc/2903> and <http://codes.ohio.gov/orc/2307.44>.

<sup>22</sup> *Vermont Code* online at: <http://www.leg.state.vt.us/statutes/fullsection.cfm?Title=16&Chapter=001&Section=00140b>.

<sup>23</sup> *Code of Virginia* online at: <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-56>.

*Washington – Revised Code, ss. 28B.10.900 to 28B.10.902*<sup>24</sup>

Hazing is a misdemeanor in Washington. Any organization that knowingly permits hazing is strictly liable for harm caused. The definition is limited, however, to the hazing of students attending institutions of higher learning or post-secondary institutions.

*Wisconsin – Code, ss. 948.51*<sup>25</sup>

Hazing is defined as a forced activity and is a Class A misdemeanor if the act is likely to result in bodily harm to a person. The offence is a Class E felony if the act results in great bodily harm or death of a person.

### **Conclusion**

In terms of comprehensiveness, the legislation out of Florida appears to be quite broad. Not only does it provide for varying degrees of hazing, it includes a hazing education course for anyone convicted of the offence. Additionally, the legislation instructs educational institutions to draft their own anti-hazing policies, which serve to further deter hazing.

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<sup>24</sup> *Washington Revised Code* online at: <http://apps.leg.wa.gov/RCW/default.aspx?cite=28B.10.900>.

<sup>25</sup> *Wisconsin Code* online at:  
<http://nxt.legis.state.wi.us/nxt/gateway.dll?f=templates&fn=default.htm&d=stats&jd=948.51>.

## **Useful Resources**

Hazing is a controversial issue. It is also a difficult term to define. It can involve various acts and degrees of harm, though it is argued by some to be harmless. Individuals have been injured or even lost their lives to hazing. Some of the strongest lobbying efforts concerning hazing are listed below.

<http://www.stophazing.org/laws.html>

“Stop Hazing” was birthed out of a successful attempt to have anti-hazing legislation passed in New Hampshire. After achieving their legislative aim, the information accumulated by the organization was published on the internet for public viewing. It is very informative, highly professional in its approach, and has a history of success.

[http://www.thehazinglawyers.com/Anti-Hazing\\_Laws.html](http://www.thehazinglawyers.com/Anti-Hazing_Laws.html)

This website serves as a measure of the seriousness of hazing legislation. These lawyers have developed a practice around hazing, You may find their Common Sense test to identify hazing useful, but it is in no way legal affirmation.

<http://www.thecanadianencyclopedia.com/index.cfm?PgNm=TCE&Params=M1ARTM0013152>

For a more close to home example, you may be interested in visiting this Maclean article dealing with hazing in the Canadian Forces. It is by no means legal, or academic. For whatever reason hazing appears to be seen differently by many different people. Some appear to see it as beneficial, others oppose it passionately, while still others oppose it but accept it as being inevitable.

## Canadian Jurisprudence

While hazing is not illegal in Canada, many of the acts associated with hazing are inherently illegal in accordance with other criminal statutes. In the courts, the topic of hazing is often discussed as being inappropriate:

R v P(L). This is a military case which discusses loss of public support for hazing. Of course, the use of the word “public interest” may not be referring to the political will of legislators as much as it is referring to the regulations of the Canadian Forces put in place by its leadership which may or may not have been influenced by “public interest”:

“Appellant pled guilty to two counts of sexual exploitation under s.130 of the National Defence Act, contrary to ss.153(1)(b) of the Criminal Code, and four counts of conduct to the prejudice of good order and discipline under s.129 of the Act. He was sentenced to five months imprisonment by the President of the Standing Court Martial. Appellant appealed his sentence. Appellant captain was employed as an instructor and training officer. During two evening sessions around campfires, cadets of both sexes were engaged in games of "Truth or Dare, " a tradition at the training site. On the two occasions in question, the activities progressed from the usual dares to dares involving partial and full nudity, as well as simulated sexual activity. All cadets performing those dares under appellant's supervision at the time were between and 17 years old. Cadets were uncomfortable with some of the dares (streaking, licking peanut butter off another's chest, sitting partially clothed on each other's laps, simulating sexual positions while clothed, dancing clad only in newspaper), but were told by appellant that they must comply. They felt that they had no choice but to comply because of appellant's rank. Cadets were incited by staff to make the dares progressively more interesting or they would have to go to bed. Appellant submitted that the rationale behind the severity of the sentence, namely the need to have a force of men and women to defend against threats to a nation's security, and the need to enforce internal discipline effectively and efficiently in order to maintain the armed forces in a state of readiness, was not applicable here.

HELD: leave to appeal granted; appeal allowed. What was involved here was a breach of public trust. A sentence of 30 days would not reflect the public interest in ensuring that sexually degrading activities or hazing were no longer acceptable. Protection of the public through a sentence which incorporated the elements of general deterrence and denunciation were of paramount importance in this case. However, appellant pled guilty which spared the young cadets from having to testify. In light of the plea, the abundance of other genuinely mitigating factors, and the fact that it was found that none of the victims suffered any lasting harm, an appropriate sentence would be as low as was reasonably possible without minimizing the seriousness of the offence of which appellant was convicted. A sentence of

five months was clearly excessive, and a more fit sentence was imprisonment for 90 days.”<sup>26</sup>

Finding jurisprudence on hazing in Canada that is outside of the Canadian Forces is a much more difficult thing to do given that hazing is not illegal.

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<sup>26</sup> R v P(L), [1998] C.M.A.J. No. 8