



Ohio Judicial Conference

The Voice of Ohio Judges

SB 126 – Interested Party Testimony Senate Workforce and Higher Education Committee

Chair Johnson, Vice Chair Cirino, Ranking Member Williams, and Members of the Committee:

The Criminal Law and Procedure Committee of the Ohio Judicial Conference has reviewed Senate Bill 126, which addresses hazing. I would like to share with you two concerns that members of that committee raised.

Under the bill, the definition of “hazing” includes acts that “cause substantial risk of emotional harm to another,” as well as consuming food, alcohol, drugs, or other substances “which subjects the victim to a substantial risk of emotional or physical harm.” Our concern is that the term “emotional harm” is not defined in the bill. Left undefined, the term is vague and ambiguous: is it the risk of emotional harm to a reasonable person, or is it subjective based upon a particular victim or other targeted individual? Is minor embarrassment considered emotional harm, and if so, is that the type of activity that this bill seeks to criminalize? While well intentioned, the ambiguous term could lead to unintentional and inconsistent application of the law, and we believe the bill can be improved by defining the term to avoid such confusion and uncertainty.

Additionally, the bill also raises some concerns regarding one’s Fifth Amendment protections against self-incrimination. Division (F)(1) provides that "No individual who violates division (B) of this section, or witnesses another violate division (B) if this section, shall knowingly fail to immediately report the hazing to law enforcement or emergency services if the hazing causes physical harm in the victim of the hazing." Violation of this section is a misdemeanor of the first degree except when the hazing causes serious physical harm to the victim, in which case it is a felony of the third degree. This seems to put anyone who is in the organization under a duty to turn themselves in for

violating the law. If a person knows about the hazing and the person advises law enforcement of the hazing, that person, by their mere knowledge, may be subject to prosecution for participating in the hazing. This then could cause a person to be put in the Catch-22 of either waiving their Fifth Amendment right against self-incrimination by complying with this statute and reporting the offense, thus subjecting themselves to a possible F2 conviction, or protecting that right and being subject to prosecution for failing to report the hazing.

As always, thank you for considering the feedback of Ohio's judges.

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