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Nothing is more tragic or senseless than a death or serious injury due to hazing a would-be fraternal brother or sister. Virtually every national fraternity has adopted rigorous anti-hazing regulations and solid educational programs. Universities, too, have adopted strict disciplinary codes banning hazing. Across the country, some 41 states now have statutes specifically outlawing hazing.

Nonetheless, lawsuits, and more important, tragedies continue to occur from time to time. The repugnant "tradition" of hazing continues to exist in too many chapters.

A significant portion of this issue of *Fraternal Law* is devoted to providing an update on hazing issues. The publication of Hank Nuwer's new book, *Wrongs of Passage*, calls attention to the problem in a way likely to receive wide coverage in the media. A recent court decision in Louisiana focuses on the legal fallout for both national fraternities and host universities that may be associated with hazing. A jury in Kentucky recently awarded almost $1 million to a victim of hazing. This issue also provides an updated compilation of anti-hazing statutes now enacted in 41 states.

Combined, all of these recent developments underscore the need for continued efforts to eliminate the long-ago discredited practice of hazing.

SPLIT IN CIRCUITS CAUSES UNCERTAINTY IN LOUISIANA

In May, the Louisiana Second Circuit Court of Appeal held the State of Louisiana and a national fraternity liable for injuries caused to a pledge during a hazing incident.[1] This decision runs counter to a similar case decided by the Louisiana First Circuit Court of Appeal in 1997.[2] There, the court decided that a national fraternity did not have a duty to prevent injuries caused by hazing and denied liability against the national.

In December 1997, the First Circuit upheld the granting of a motion for summary judgment dismissing a claim of liability against the Phi Beta Sigma national fraternity in an incident of hazing at Southern University. In that case, Duronne Walker alleged that during the fraternity's membership intake process, he was physically beaten and abused by several members of the fraternity while they were conducting "intake activities." Walker alleged that the national fraternity was directly responsible for his injuries and also vicariously liable for the actions of the chapter members who physically beat and abused him. In the *Walker* case, Phi Beta Sigma national fraternity was able to show that its membership intake process prohibited all types of hazing activities and that materials were distributed to the college chapters outlining the fraternity's procedures for a hazing-free initiation of members. Those procedures required each chapter to assign a trainer to be responsible for instructing the chapter at large on the membership intake process and to discuss the illegality of hazing at informational meetings held during the recruiting process. Informational materials were provided to all active and prospective members of the fraternity that required all persons who witnessed or had knowledge of a member of the fraternity conducting illegal activities to report them to the national fraternity's executive director. In addition, Phi Beta Sigma demonstrated that it had no prior knowledge of hazing allegations at the Southern University chapter and there were no allegations that any representatives of the national fraternity were involved in any of the hazing incidents. To the contrary, the evidence showed that the hazing activities that occurred were "purposely hidden from the national fraternity."

In granting the national fraternity's motion for summary judgment, the Court found that Walker's contention that the national fraternity's actions in forbidding hazing imposed a duty on the fraternity to prevent his injuries was without merit. The Court found that the internal structure of the national organization reflects that the "national fraternity was not in a position to control the action of its chapters on a day-to-day basis." The court pointed out that the national fraternity is located in the District of Columbia, while the local chapter is located on Southern's campus in Baton Rouge, Louisiana.

In the 1999 case, however, the Second Circuit Court of Appeal found that the State of Louisiana and a national fraternity were liable, in part, for the plaintiff's hazing injuries. On April 10, 1994, Kendrick Morrison, a freshman interested in membership in the Kappa Alpha Psi fraternity at Louisiana Tech, was physically beaten by Jesse Magee, the chapter president. A jury awarded Morrison a total of $312,000.00 in general and medical damages. One-third of the responsibility

Coming in the next issue:

- Federal court rules against Pi Lambda Phi's freedom of association rights at University of Pittsburgh.
- Jury in Kentucky awards $750,000 in punitive damages in hazing case against fraternity.
- Nebraska Supreme Court says university has duty to protect students against hazing.

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for Morrison's injuries was allocated to the State of Louisiana and the national fraternity respectively. In addition, the jury determined that the national fraternity was vicariously liable for the actions of the undergraduate chapter's president.

On appeal, the Second Circuit upheld the jury verdict, although it reduced the general damages from $300,000.00 to $40,000.00 finding that the jury award was excessive under the facts and circumstances of the case. In addition, the *Morrison* Court found that the national fraternity was not liable for the chapter president's actions. The court found that "there is no evidence that the national fraternity exercised any control over the physical details of Magee's acts of hazing, assaulting and battering (Morrison) during a secret, unscheduled, unsanctioned meeting in Magee's dorm room. Instead, the evidence shows that such criminal conduct is expressly forbidden by Kappa national."

The Second Circuit distinguished its holding in *Morrison* from that of the First Circuit in the *Walker* case on factual grounds. The evidence at trial showed that Kappa Alpha Psi had prohibited hazing since 1949. In 1988, Kappa Alpha Psi had taken disciplinary action against the Louisiana Tech chapter and several local members for hazing incidents, although the incidents were not reported to the college. In 1990, all of the historically Black Greek letter organizations adopted membership intake programs that expressly prohibited the traditional pledging process and specifically prohibited hazing. In 1993, Kappa Alpha Psi national fraternity issued Executive Order No. 2 addressing incidents of hazing at local chapters and reaffirming the fraternity's policies outlawing hazing. In addition, the national took the initiative to establish educational programs and seminars addressing the problems associated with hazing. Based on this evidence, the Circuit Court found that the actions of Kappa Alpha Psi national fraternity supported the jury's conclusion that the national fraternity assumed a duty to regulate and prevent hazing at its chapters, especially given the fact that the national was on notice of the Louisiana Tech chapter's hazing violation in 1988.

The Court found further support for the fraternity's liability in that Kappa Alpha Psi national did not follow its own procedures when it failed to inform the university of the 1988 hazing incidents. Additionally, no alumni advisor was assigned to the Louisiana Tech chapter as required by the national fraternity's policy. Although the chapter had a Louisiana Tech faculty advisor, he was not a member of the fraternity and was not invited by the local chapter to any meetings or functions. The faculty advisor testified at trial that he did not know who to contact at the national or regional levels to report allegations of hazing of which the university was alerted in 1993.

Under these circumstances, the Second Circuit upheld the jury's determination that the breach of duty by the national fraternity was a cause in fact of the harm to Morrison. According to the Court, had Kappa Alpha Psi national fraternity acted reasonably and followed its own regulations, the injury to Morrison may well have never occurred.

The State of Louisiana argued that the theory of *in loco parentis* had been rejected and, as such, the state and its college held no duty to Morrison. However, the Circuit Court noted that a university official in charge of student affairs was notified three times by separate individuals that the Kappa Alpha Psi chapter had been engaged in hazing activities the year prior to Morrison's injuries and that the university failed to advise the national fraternity of these allegations. The Court further held that the college administrator responsible for overseeing the Greek system had been put on notice of the possibility of prior hazing activity occurring in the Kappa Alpha Psi chapter and, given the serious nature of hazing, "social policy justifies a special relationship between the university and its students" in Morrison's situation. The Court found precedent that knowledge by a university of a known "documented history of hazing by a fraternal organization does, in fact, obligate the university to monitor such behavior."[3] The *Morrison* Court concluded that prior knowledge of hazing created a duty to monitor the fraternity for future hazing activity.

In distinguishing between the *Morrison* and *Walker* cases, the *Morrison* Court noted that Phi Beta Sigma had no prior knowledge of hazing at its Southern University chapter. Further, the Court found that Kappa Alpha Psi national fraternity undertook a duty to regulate and monitor its chapters to prevent hazing, but had "failed to act reasonably to fulfill this duty."

The key factor in finding liability in the actions of both Kappa Alpha Psi national and the State of Louisiana was notice. According to the Court, both entities were aware, or should have been aware, that the Louisiana Tech chapter of Kappa Alpha Psi had participated in hazing activities in the past. The incidents that occurred in 1988 of which only the national knew, and in 1993 of which only the college knew, should have placed both entities on notice. Clearly, the *Morrison* Court is saying that if there is knowledge of hazing, both the college and the fraternity must act and act properly.

Policies and prohibitions of a national fraternity and a university are not enough. Those policies must be enforced. By taking such a stance, negligence in failing to follow those policies, as in *Morrison*, may lead to liability.

The bottom line, at least in Louisiana, is this – adopted policies must be taken seriously and must be enforced. Knowledge of hazing must be acted upon. Failure to do so dramatically increases the potential for liability.

• Christopher A. Wagner

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[1] *Morrison v. Kappa Alpha Psi Fraternity*, 1999 La. App. LEXIS 1345 (decided May 7, 1999).

[2] *Walker v. Phi Beta Sigma Fraternity*, 706 So. 2d 525, 1997 La. App. LEXIS 2956 (decided December 29, 1997).

[3] *Fox v. Board of Supervisors of Louisiana State University*, 576 So. 2d 978 (La. 1991).

"GUARDIAN ANGEL" FALLS DOWN ON THE JOB

Under the laws of the State of Idaho, a sorority may be liable to one of its members who was injured as a result of becoming intoxicated at two fraternity parties even though the fraternities which served alcohol to the underage student are not liable. This unusual conclusion grows out of a case decided by the Supreme Court of Idaho on August 30, 1999.[1]

In 1993, Rejena Coghlan, who had just completed rush and pledged the Alpha Phi sorority, attended parties sponsored by three fraternities celebrating the end of rush. Earlier that day, at an Alpha Phi meeting, the sorority's policy against underage drinking was discussed and Coghlan was assigned a "guardian angel." Unfortunately for the sorority, Coghlan's "guardian angel," an active member of the sorority who was apparently to provide Coghlan with assistance at the upcoming parties, allegedly told Coghlan that she would not be "hanging out" with Coghlan that night.

Coghlan proceeded to attend two fraternity parties, a "Jack Daniels Birthday Party" sponsored by Sigma Alpha Epsilon and Pi Kappa Alpha, and a "50 Ways to Lose Your Liver Party" hosted by Beta Theta Pi. Two university officials attended the Beta Theta Pi party. Coghlan, who says that she was served beer and hard alcohol at the two parties, became intoxicated. She was taken home by an Alpha Phi and put in bed in the third floor sleeping area of the sorority house. She was later discovered laying in some bushes below the third floor fire escape landing from which she apparently fell. As a result of the permanent injuries sustained in the fall, she filed suit against the three fraternities involved, the university, the sorority, and a series of unnamed individual defendants.

On pretrial motions for summary judgment, the trial court dismissed Coghlan's claims against all of the defendants. That suit was ultimately appealed to the Idaho Supreme Court. In its 18-page decision, the court upheld the dismissal of the fraternities based on Idaho's very clear dram shop law. Dram shop laws hail from ancient England and generally hold that a provider of alcohol may be liable for the injury caused by an individual who became intoxicated at the dram shop owner's facility or for injuries to the intoxicated person if the dram shop owner continued to serve the individual past the point of intoxication. In Idaho, the statute specifically provides that "no claim or cause of action [against a provider of alcohol] shall lie on behalf of the intoxicated person, nor on behalf of the intoxicated person's estate or representative."[2] This statutory provision was supported by a specific legislative finding "that it is not the furnishing of alcoholic beverages that is the proximate cause of injuries inflicted by intoxicated persons."

The plaintiff's challenge to the constitutionality of the limitations contained in the Idaho law were strongly rebuffed by the Idaho Supreme Court. The Court found that the law had a rational basis behind it in that "prohibiting persons who become intoxicated from their recovering from negligent providers of alcohol both limits dram shop and social host liability and discourages irresponsible consumption of alcohol." Therefore, the Court found that even though disparate treatment existed between intoxicated persons and non-intoxicated persons under the Idaho Dram Shop Act, that distinction was rationally related to a legitimate governmental purpose and therefore constitutional.

Neither the university nor the sorority were as fortunate as the three fraternities. While finding that no special relationship existed between the university and its students that would create a duty requiring the university to "aid or protect adult students from the risks associated with the students' own voluntary intoxication," the Court found that the university may have taken upon itself a duty where one previously did not exist. The Court pointed out that "if one voluntarily undertakes to perform an act, having no prior duty to do so, the duty arises to perform the act in a non-negligent manner."[3]

In a motion for summary judgment, the Court is considering facts that have not yet been proven at trial and must consider the facts to be as claimed by the party against whom the motion for summary judgment is made. In this case, Coghlan claimed that the two university employees who were present at the Beta Theta Pi party were there to supervise the party and that they knew or should have known that intoxicating beverages were being served to underage students. Coghlan further alleged that those university employees should have taken action at that time that would have prevented Coghlan from becoming intoxicated and therefore would have prevented her injuries.

Similarly, the Court said Alpha Phi did not have such a special relationship to its members that imposed a duty by law to protect its members. However, the facts claimed by Coghlan supported an argument that the sorority had also voluntarily assumed a duty. Coghlan claims that in selecting her as a pledge, inviting her to fraternity parties where the sorority knew alcohol would be served and by encouraging her to drink, the sorority had accepted a duty to supervise and protect Coghlan. Coghlan also claimed that the appointment of a "guardian angel" to supervise Coghlan created an assumed duty which was breached when the guardian angel failed to do her job. Coghlan also alleged that when an Alpha Phi member voluntarily took Coghlan back to the sorority house and put her to bed on the third floor, the sorority assumed a duty to supervise and protect her until she was no longer in danger of physical harm due to the intoxication.

As a result, while the three men's groups were absolved from all liability, the Supreme Court of Idaho sent the claims against the university and Alpha Phi back to the trial court for trial.[4]

The message here is a mixed one. The Idaho Dram Shop Law imposed a responsibility on the individual who chose to drink. While the provider of alcohol is absolved from civil

liability, it should be pointed out that the law does not absolve from criminal liability one who provides alcohol to a minor.

The danger from this decision is the signal it sends to those fraternities and sororities which maintain programs designed to assist and protect partygoers. Whether called "guardian angels" [probably a bad name to begin with] or "big brothers" or "big sisters" or "sober driver" programs, it should be recognized that such programs bring with them responsibilities. The programs themselves must be operated reasonably. If a sorority announces it will have a sober driver program available on a particular night, the driver better be sober. The driver ought to also be someone who has insurance and operates a car carefully, not someone with an atrocious driving record. A big brother, who is announced as being responsible for looking after a new pledge, ought to do just that, not be the pledge's source for illegally obtaining alcohol.

The message from this Idaho case should not be that duties should never be voluntarily assumed – rather that when duties are assumed they must be exercised with reasonable diligence and care. A chapter or a national fraternity should never undertake or announce a new program unless the determination exists to back up the good intentions with the effort it takes to make a program actually work.

• Timothy M. Burke

[1] *Coghlan, et al. v. Beta Theta Pi Fraternity* (1999), Idaho LEXIS 108 (August 30, 1999).

[2] Idaho's Dram Shop Act can be found in the Idaho Code, Section 23.808.

[3] Quoting *Featherstone v. Allstate Ins. Co.*, 125 Idaho 840, 843, 875 P.2d 937, 940 (1994) (citing *Bowling v. Jack B. Parson Cos.*, 117 Idaho 1030, 1032, 793 P.2d 703, 705 (1990).)

[4] This decision does not mean that either the university or the sorority is liable for Coghlan's injuries, only that they may be. Facts will now have to be proven at trial and the sorority and university will have the opportunity to tell their sides of the story.

NUWER'S *WRONGS OF PASSAGE* REVIEWED

Wrongs of Passage (Indiana University Press), is the second book by Hank Nuwer to examine the tragedies of hazing. Nuwer, whose first book, *Broken Pledges*, examined in detail the alcohol-related death of Chuck Stenzel at Alfred University, in his latest effort, produces an almost encyclopedic overview of the hazing and alcohol tragedies that continue to haunt the Greek system.

Opening with the detailed story of the death of Chad Saucier, an Auburn University Phi Delta Theta, Nuwer examines the history of hazing, its causes, effects and possible solutions. Repeatedly making his points with historical anecdotes such as future U.S. President Benjamin Harrison kicking out several of his brothers who would embarrass the Phi Delta Theta chapter at Miami University of Ohio – to discussions with family members of recent victims, Nuwer builds a powerful case against the consequences of hazing and alcohol abuse.

Beginning with Plato's complaints at the Academy as early as 387 B.C., Nuwer traces the history of hazing through medieval schools to the tradition of fagging at Yale in the early 1800s. (Fagging was the practice of requiring freshman students to wait on and service upperclassmen.) Nuwer does not limit his criticism to hazing in the context of fraternity groups. Rather, he makes it clear that the practice of "initiating" new members of organizations through psychological and physical challenges and, in its worst form, beatings, exists not only in the Greek world, but with athletic teams, the military, and in other social organizations. Nuwer does, however, save his closest examination and criticism for Greek organizations. One chapter is devoted to problems existing in the sorority world while another chapter concentrates exclusively on historically African-American Greek organizations.

Nuwer offers numerous recommendations for steps that can and should be taken by universities, fraternities, parents and police to help eliminate hazing, alcohol abuse and the tragedies which are too frequently associated with them. His dozens of specific recommendations include: an increase in the severity of hazing penalties; closer supervision of houses by "responsible" adults; a ban on rooftop beaches; punishment of faculty and staff who fail to report hazing; and continuing to stress that hazing is wrong "semester after semester." He urges that fraternities must "join the rest of the world in developing a positive attitude toward women," "should stop feeding alcohol to women," and put an end to "racist, homophobic and barbaric practices." Many of his strategies are already being implemented by national fraternities and sororities. Others are worth consideration. Some of Nuwer's proposed solutions are common sense thoughtful approaches to the problem while others are controversial and subject to fair debate within the Greek world.

Perhaps the most striking section of the book is the 38-page "Chronology of Death" which details deaths related to hazing, alcohol abuse and other misconduct among college students. The chronology runs from the 1838 death of John Butler Groves at the Franklin Seminary in Kentucky to three separate deaths occurring this year. Even the short snippets which describe each of the entries in the Chronology of Death make clear the too frequent connection between alcohol abuse and hazing.

The ultimate point is that in spite of past and continuing efforts, the tragedies associated with hazing, alcohol and other drug use continue to occur. Nuwer's book simply and eloquently argues the case for a rededication to those efforts lest the "Chronology of Death" continue.

ANTI-HAZING STATUTES

The following is a compilation of current state statutes that outlaw hazing. Typically, statutes prohibit any willful action that recklessly or intentionally endangers the physical health of a student; some statutes include the mental health of a student as well. Many statutes enumerate certain acts which constitute hazing, i.e. sleep deprivations, forced calisthenics and drug and alcohol use. Although a particular state may not have enacted a specific hazing statute, often actions that constitute hazing may be prosecuted under other criminal statutes, such as assault or reckless endangerment statues.

In the vast majority of states, consent by the pledge or new member is not a defense to hazing.

Alabama – § 16-1-23
Class C misdemeanor – prohibits "[a]ny willful act ... which recklessly or intentionally endangers the mental or physical health of any student." It includes any willful act in striking, beating or maiming, as well as attempting or threatening to do the same, and prohibits encouraging, aiding and 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 - §§ 6-5-201 to 204
Class B misdemeanor – prohibits committing hazing and aiding or assisting. This statute contains a very broad definition of hazing. Additional punishment is the required expulsion from the educational institution the perpetrator attends.

California – Ed. Code §§ 32050 to 32051
Hazing is defined as an initiation process likely to cause physical harm or personal degradation. The punishment for committing or conspiring to haze is a misdemeanor with a fine between $100 to $5,000 and/or up to one-year imprisonment.

Connecticut - § 53-23a
Prohibits the endangerment of the health and safety of a person for the purpose of initiation. Student organizations, in addition to forfeiting rights at an educational institution, may be punished by a fine not greater than $1,500 while individuals may be fined up to $1,000.

Colorado – § 18-9-124
Class 3 misdemeanor - prohibits reckless endangerment of the health or safety of others for the purposes of initiation. Statute became law on July 1, 1999.

Delaware – Title 14, §§ 9301 to 9304
Class B misdemeanor. For the purposes of initiation it shall be presumed to be a forced activity. Requires all institutions to adopt and enforce a written anti-hazing policy.

Florida - §§ 340.262, 340.326 and 240.1325
Three separate statutes governing state universities, community colleges and public and private colleges whose students receive state financial aid. All institutions must adopt a written anti-hazing policy complete with penalties. Those penalties shall be in addition to any penalty imposed for a violation of the criminal laws of Florida.

Georgia - § 16-5-61
Misdemeanor of a high and aggravated nature – prohibits any possible activity which endangers the physical health of a student, regardless of a student's willing participation, in connection with initiation.

Idaho - § 18-917
Misdemeanor – prohibits members of student organizations, on or near campuses, from engaging or conspiring to intentionally haze. Hazing is defined as physical harm or danger, as well as the likelihood of the same.

Illinois - §§ 720 ILCS 120/5 and 720 ILCS 120/10
Class A misdemeanor unless the hazing results in the death or great bodily harm, then Class 4 felony – prohibits the knowing performance of an act by a person at an educational institution that is not sanctioned by that institution, or the act results in bodily harm to any person.

Indiana - § 35-42-2-2
Misdemeanor and felony penalties depending on severity. Offers immunity for the good faith reporting of hazing or participation in a judicial proceeding. Hazing is defined as an act required for membership that encompasses a substantial risk of bodily harm.

Iowa - § 708.10
Simple misdemeanor, or if serious bodily injury results, a serious misdemeanor. Hazing defined as forced activity that endangers the physical health of a student for the sake of initiation.

Kansas - § 21-3434
Class B misdemeanor – prohibits intentionally encouraging another person to perform an act, which could reasonably be expected to result in great bodily harm, for initiation purposes.

Kentucky - § 164.375
Places the burden on universities and colleges to enact anti-hazing policies. Penalties to be included are expulsion or suspension. Organizations, if sponsors of hazing, may be expelled from operating on campus.

Louisiana – Title 17, § 1801
Prohibits any method of initiation that is likely to cause bodily danger or physical punishment. Statute applies at educational institutions "supported wholly or in part by public funds." Punishment includes fines from $10 to no more than $100 and/or imprisonment of 10 days to no more than 30 days, in addition to expulsion from the educational institution.

Maine – Title 20-A, § 10004 and § 6553
Applies to post-secondary, secondary and elementary levels. The penalties and rules are to be determined by the school board or the board of trustees, which shall disseminate the information to the students. The secondary and elementary definition has been expanded from the reckless endangerment standard to include harassing behavior and the risk to school personnel.

Maryland – Article 27, § 268H
Misdemeanor with a fine not to exceed $500 or imprisonment for not more than 6 months – prohibits reckless or intentional subjection of students to the risk of serious bodily injury for the purpose of initiation.

Massachusetts – Title 1, Chapter 269, §§ 17 to 19
An organizer or participant of hazing shall be fined not more than $3,000 and/or imprisoned not more than one year. Failure to report an incident of hazing shall be punished by a maximum fine of $1,000. Student or-

ganizations are responsible to acknowledge annually the receipt of notification of state hazing law.

Minnesota - §§ 120B.22, 128C.02 and 121A.69

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 polices and anti-violence education.

Mississippi - § 97-3-105

A fine of up to $1,000 punishes the substantial risk of injury to a person. If an injury does result then the punishment is increased to a fine of $2,000 and/or imprisonment for up to 6 months.

Missouri - §§ 578.360, 578.363 and 578.365

Class A misdemeanor; Class C felony if the act creates a substantial risk to the life of the person. Educational institutions must adopt written policies prohibiting hazing by student organizations.

Nebraska - §§ 28-311.06 to 28-311.07

Class II misdemeanor. Any organization whose members commit hazing may be fined up to $10,000. Alumni organizations and any organization, which own the house or real estate of a student organization, are specifically excluded.

Nevada – Senate Bill 297

Approved May 24, 1999. A misdemeanor or gross misdemeanor depending if substantial bodily harm results. Applies to the reckless endangerment of a person's physical health.

New Hampshire - § 641:7

Class B misdemeanor – punishments include failing to report hazing. Education institutions may also be charged with a misdemeanor for knowingly condoning hazing or negligently failing to take adequate measures to prevent student hazing.

New Jersey – Title 2C, §§ 40-3 to 40-4

Hazing is a disorderly persons offense, however if hazing results in serious bodily injury then the person is guilty of aggravated hazing, which is a crime in the fourth degree.

New York -Penal Code §§ 120.16 to 120.17

Class A misdemeanor if physical injury occurs. Second degree hazing for the substantial risk of bodily injury.

North Carolina - §§ 14-35, 14-36 and 14-38

Class 2 misdemeanor – prohibits anyone from abusing or harassing a student, or subjecting the student to personal indignity. Aiding and abetting is also punishable. Coupled with criminal punishment, a perpetrator must be expelled from the college or school.

North Dakota - § 12.1-17-10

Class A misdemeanor if physical injury results, otherwise class B misdemeanor.

Ohio - §§ 2903.31 and 2903.44

4th Degree Misdemeanor – prohibits mental and physical harm in initiation. Victims of hazing may commence a civil action for hazing. Civil liability for hazing extends to local and national directors, trustees and officers who authorized or tolerated hazing. Educational institutions may use an anti-hazing policy as an affirmative defense. Certain governmental immunity is waived for educational institutions in hazing cases. University officials as well as national fraternity officials may, under certain circumstances, be liable.

Oklahoma - § 1190

Punishment for an organization is a fine up to $1,500 and suspension of rights up to one year. The punishment for an individual is a fine up to $500 and/or imprisonment up to 90 days. Prohibits dangers to physical and mental health.

Oregon - § 163.197

Organizations may receive a fine up to $1,000 while individuals may receive a fine up to $250. Hazing is defined as an intentional act.

Pennsylvania – Chapter 24, §§ 5352 to 5354

3rd Degree Misdemeanor. Educational institutions with the power to grant associate or higher degrees must adopt an anti-hazing policy.

Rhode Island - §11-21-1

Misdemeanor with a fine of not more than $500 and/or imprisonment of not less then 30 days and not more than 100 days. Defined as any conduct or method of initiation, which endangers physical or mental health.

South Carolina - §§ 16-3-510 to 16-3-540 and 59-101-200

Misdemeanor with up to $500 in fines and/or imprisonment up to 12 months. At state supported institutions of higher learning the president is authorized at his or her discretion to suspend or expel transgressors. Failure to report hazing is also unlawful. Fraternal organizations with a minimum age limit of over 21 that do not operate in connection with an educational institution are exempt.

Tennessee - § 49-7-123

The hazing prohibition is restricted to organizations sanctioned by an institution of higher learning. Such educational institutions must adopt a written anti-hazing policy.

Texas - §§ 37.151 to 37.157 and 51.936

Class B misdemeanor, Class A if results in bodily injury. State felony if results in death. An organization may be fined if it condones or encourages hazing. Medical personnel receive immunity from liability for reporting an incident of hazing if the report is made in good faith. Statutes apply to secondary educational institutions and institutions of higher learning only.

Utah - §§ 53A-11-908 and 76-5-107.5

Misdemeanor if it involves animals, motor vehicles or no aggravating circumstances. Felony if it involves a dangerous weapon or bodily injury. Civil and criminal immunity exists for persons reporting in good faith and only regarding the report of the hazing incident.

Virginia - § 18.2-56

Class 1 misdemeanor, unless the injury constitutes a felony. Definition does not include a connection to initiation. A victim has the right to civil action against transgressors, whether adults or infants. The president of any school or university receiving appropriations from the state treasury must report to an attorney for the Commonwealth for prosecution any acts of transgression of this statute.

Washington - §§ 28B.10.900 to 28B.10.902

Misdemeanor – any organization that knowingly permits hazing is strictly liable for harm caused to persons or property. Directors of organizations may be held individually liable. The definition limits hazing to students attending institutions of higher learning or post-secondary institutions.

West Virginia - §§ 18-16-2, 18-16-3, 18-16-33 and 18-16-4

Amendment on March 20, 1999 requires the state board to promulgate anti-hazing rules for public schools sponsored student organizations. Misdemeanor unless the acts constitute a felony.

Wisconsin - § 948.51

Class A misdemeanor if the act is likely to result in bodily harm to a person. Class E felony if the act results in great bodily harm or death of a person.

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The goal of *Fraternal Law* is to provide a discussion of fraternity law, but its contents are not intended to provide legal advice for individual problems of Greek organizations. The latter should be obtained from your attorney.

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