

Student means an individual enrolled in a public or private school or postsecondary program.

Organization any number of persons associated with a school or postsecondary education institution including fraternities, sororities, associations, corporations, orders, societies, corps, clubs, or similar group; and includes any student organization registered pursuant to the policies of the school or postsecondary education institution as any time during the previous five years.

Section 2 creates a new section of KRS Chapter 508 making hazing in the first degree a **Class D felony** when an individual intentionally or wantonly engages in an act of hazing that results in serious physical injury or death to a minor or student. A defense under this section shall be the act was part of a reasonable and customary athletic competitions or events, law enforcement training, of military training. Any sentence imposed for this crime shall run concurrently with any sentence imposed for wanton endangerment in the first degree, a class D felony or wanton endangerment in the second degree, a Class A misdemeanor.

Section 3 makes hazing in the second degree a **Class A misdemeanor** when a person recklessly engages in the act of hazing.

Section 4 provides that nothing herein shall be construed to create or imply a new cause of action against any educational institution.

Section 5 provides that this ACT may be cited as Lofton's Law.

The fiscal impact of SB 9 HCS 1 on local governments will be indeterminable, but expected to be minimal. Law enforcement will have to be trained on the provisions, and local jails might see an increase in detainees. SB 9 HCS 1 will also act as a deterrent to extreme hazing as defined herein.

Hazing is most widely attributed to varsity athletics and social fraternities and sororities, but reality reflects hazing is present in other organizations including honor societies, academic clubs, and performing art organizations. There are general statistics available: 73% of social fraternity and sorority have been subjected to hazing; 74% of varsity athletes have been subjected to hazing. Unfortunately, due to the environment in which hazing occurs, many of the instances go unreported unless the hazing results in a medical emergency or even death.

As detailed above, SB 9 HCS 1 makes hazing a Class A misdemeanor or a Class D felon depending on the severity of the crime.

Class A misdemeanors:

A person convicted of a Class A misdemeanor may be incarcerated for up to twelve months. Misdemeanants are housed in one of Kentucky's 74 full-service jails or three life safety jails. While the expense of housing inmates varies by jail, this estimated impact will be

based on an average cost to incarcerate of \$40.11 per day. While most misdemeanor defendants are granted bail, those who do not will also cost local jails an average cost to incarcerate of \$40.11 per day.

Class D felons:

When a court denies bail to a Class D felony defendant, the local government is responsible for incarcerating the defendant until disposition of the case in one of Kentucky’s 74 full-service jails or three life safety jails. While the expense of housing inmates varies by jail, each additional inmate increases facility costs by an average cost to incarcerate of \$40.11, which includes the \$35.34 per diem and medical expenses that the Department of Corrections pays jails to house felony offenders. Upon sentencing, a Class D felon is housed in one of Kentucky’s full-service jails for the duration of his or her sentence. The Department of Corrections pays a jail \$35.34 per day to house a Class D felon. The per diem may be less than, equal to, or greater than the actual housing cost.

Part III: Differences to Local Government Mandate Statement from Prior Versions

SB 9 HCS 1 makes the following changes from the GA version that passed the Senate:

- clarifies the infraction must be a “direct” action;
- clarifies the infraction must present a “substantial” danger;
- removes the effect of hazing on “mental health” as part of the definition of hazing and as a factor of brutality;
- removes consent as a defense; and
- removes the stipulation that a person is convicted of hazing is ineligible for a Kentucky Educational Excellence Scholarship.

SB GA keeps the major provisions of SB 9 as introduced and reflects the changes made by SB 9 SCS 1.

SB 9 SCS 1 makes the following changes to SB 9 as introduced.

- Inserts the word education in the definition of “organization” and extends the definition to include any student organization meeting the guidelines herein.
- Within the descriptions of hazing in the first degree and second degree, changes the word *participates* to *engages*.
- Clarifies sentencing requirements for hazing.

Data Source(s): LRC Staff; Kentucky Department of Corrections, Stophazing.org/Hazing Statistics; Safetymanagement.eku.edu, "A Dangerous Tradition: Hazing on College Campuses"

Preparer: WB (JB) **Reviewer:** KHC **Date:** 3/15/23