

BILL ANALYSIS

Senate Research Center

S.B. 36
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Criminal Justice
5/31/2021
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 38 (2019) represented a significant overhaul of Texas's anti-hazing law. Concerns have been raised, however, regarding a few ambiguities in provisions of the law meant to incentivize reporting by offering criminal and civil immunity to persons who notify appropriate officials of hazing acts and cooperate with investigations.

S.B. 36 makes clarifying changes to establish that hazing reports—for purposes of immunity or simply to avoid the "failure to report" personal hazing offense—may be made to university officials or to law enforcement, that persons who may receive immunity include corporations and other entities that support student organizations, and that medical professionals who treat a student whom they suspect has been hazed have a duty to report their suspicions to law enforcement.

(Original Author's / Sponsor's Statement of Intent)

S.B. 36 amends current law relating to creation of a higher education task force focused on mental health services and the offense of hazing.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 37.152(a), Education Code, as follows:

(a) Provides that a person commits a personal hazing offense if the person has firsthand knowledge of the planning of a specific hazing incident involving a student in an educational institution, or has firsthand knowledge that a specific hazing incident has occurred, and knowingly fails to report that knowledge, rather than fails to report that knowledge in writing, to certain persons, including a peace officer or a law enforcement agency.

SECTION 2. Amends Section 37.155(b), Education Code, as follows:

(b) Provides that any person, including an entity organized to support an organization, who voluntarily reports a specific hazing incident involving a student in an educational institution to certain persons, including a peace officer or a law enforcement agency, is immune from civil or criminal liability that might otherwise be incurred or imposed as a result of the reported hazing incident if the person:

(1) reports the incident before being contacted by the institution or a law enforcement agency concerning the incident or otherwise being included in the institution's or a law enforcement agency's investigation of the incident; and

(2) cooperates in good faith throughout any institutional process regarding the incident, as determined by the dean of students or other appropriate official of the

institution designated by the institution, or throughout any law enforcement agency's investigation regarding the incident, as determined by the chief or other appropriate official of the law enforcement agency designated by the law enforcement agency.

Makes nonsubstantive changes.

SECTION 3. Amends Subchapter Z, Chapter 51, Education Code, by adding Section 51.91931, as follows:

Sec. 51.91931. COLLABORATIVE TASK FORCE ON HIGHER EDUCATION MENTAL HEALTH SERVICES. (a) Defines "coordinating board," "institution of higher education," and "task force."

(b) Provides that the Collaborative Task Force on Higher Education Mental Health Services (task force) is established to study and evaluate mental health services provided at institutions of higher education directly to students enrolled at the institution, including students who have experienced hazing. Requires the task force to:

(1) research the capacity of institutions of higher education to identify and address the mental health needs of students, including students who have experienced hazing, including for each institution:

(A) performing an equity analysis of the provision of services at the institution, including analyzing the number of mental health providers on campus, the length of time a student is required to wait for an appointment, partner referrals, length of treatment, and the types of services provided;

(B) the mental health provider-to-student ratios;

(C) the number of community partnerships and referrals for inpatient or outpatient mental health treatment;

(D) the total amount of funds and the total amount of funds as a percentage of the institution's budget allocated to direct mental health support services;

(E) campus-wide needs assessment of mental health climate and student experiences accessing mental health care; and

(F) staff and faculty mental health training opportunities, such as mental health first aid and suicide prevention initiatives, as well as staff and faculty opportunities to receive mental health care;

(2) identify institutional, environmental, and social barriers that directly impact student mental health and well-being, including incidents of hazing; and

(3) explore innovative and effective approaches to meeting the mental health needs of students, with specific focus on first generation college students, students of color, economically disadvantaged students, students who are parents, students of various sexual orientations, survivors of sexual assault, students who have experienced hazing, students who are immigrants, students who are or were previously in the conservatorship of the Department of Family and Protective Services, and students from rural communities, including:

(A) stigma reduction and awareness initiatives;

- (B) peer support initiatives;
- (C) action plans based on campus assessment;
- (D) recruiting and retaining counseling staff of color;
- (E) telehealth accessibility and expansion; and
- (F) addressing trauma and cultivating resiliency.

(c) Provides that the task force is composed of:

(1) the commissioner of higher education (commissioner) or the commissioner's designee;

(2) the following additional members appointed by the commissioner:

(A) three students who are enrolled at an institution of higher education in this state, at least one of whom is enrolled in a certificate program or a junior college;

(B) two persons who provide mental health services at an institution of higher education and who are a psychologist, as defined by Section 501.002 (Definitions), Occupations Code, a licensed professional counselor, as defined by Section 503.002 (General Definitions), Occupations Code, or a licensed clinical social worker, as defined by Section 505.002 (Definitions), Occupations Code;

(C) one person who is a psychiatrist;

(D) two persons who are higher education administrators and who oversee the provision of mental health services at an institution of higher education;

(E) one person who is a member of a foundation that invests in mental health services provided at institutions of higher education;

(F) one person who is an employee of an institution of higher education designated under Subsection (k) or (l); and

(G) three people who are employees of nonprofit organizations that specialize in mental health for young adults or college students; and

(3) for any other entity the task force considers necessary, one person appointed by the task force for each such entity.

(d) Requires persons appointed to serve on the task force to be selected to represent the racial, ethnic, and socioeconomic diversity of this state.

(e) Provides that Chapter 2110 (State Agency Advisory Committees), Government Code, does not apply to the task force.

(f) Provides that the commissioner is designated as the interim presiding officer for purposes of calling and conducting the initial meeting of the task force.

(g) Provides that the task force is required to at its initial meeting select a presiding officer from among its members for the purpose of calling and

conducting meetings and is authorized to select an assistant presiding officer and a secretary from among its members.

(h) Prohibits a member of the task force from receiving compensation or reimbursement for service on the task force.

(i) Requires the task force, after its initial meeting, to meet at least twice each year at a time and place determined by the presiding officer. Authorizes the task force to meet at other times the task force considers appropriate. Authorizes the presiding officer to call a meeting on the presiding officer's own motion.

(j) Authorizes the task force to meet by teleconference.

(k) Requires the commissioner to designate one institution of higher education with experience in evaluating mental health services to serve as the lead institution for the task force. Requires the institution designated under this subsection to provide faculty, staff, and administrative support services to the task force as determined necessary by the task force.

(l) Requires the commissioner to designate two institutions of higher education with experience in evaluating mental health services to assist the task force and the lead institution.

(m) Requires the commissioner, in making a designation under Subsections (k) and (l), to give preference to at least one predominantly black institution, as defined by 20 U.S.C. Section 1067q(c)(9).

(n) Requires the Texas Higher Education Coordinating Board (THECB) to maintain the data collected by the task force and the work product of the task force.

(o) Requires the task force to ensure that data gathered, information studied, and evaluations conducted under this section:

(1) are collected and maintained in compliance with federal law regarding confidentiality of student medical or educational information, including the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Section 1320d et seq.) and any state law relating to the privacy of student or health information; and

(2) are prohibited from being shared with a federal agency or state agency, except as otherwise provided by law.

(p) Authorizes THECB to accept gifts, grants, or donations on behalf of the task force to carry out the task force's duties under this section.

(q) Requires the task force, not later than December 1, 2024, to submit to the governor, the lieutenant governor, the speaker of the Texas House of Representatives, and THECB a report of the results of the task force's activities conducted under this section and any recommendations for legislative or other action.

(r) Provides that the task force is abolished and this section expires September 1, 2025.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Makes application of Section 37.155 (Immunity From Prosecution or Civil Liability Available), Education Code, as amended by this Act, prospective as regards a civil cause of action.

SECTION 6. Effective date: September 1, 2021.