

Hazing: Ohio's wide liability net

by Mark Kitrick and Sean Harris



Fraternity and sorority hazing can involve some of the most senseless and vile behavior within a civilized society. Initiation rituals, including beatings, physical tasks, and unspeakable humiliation, are undoubtedly deserving of legal redress—both in the form of punishment and compensation. Many do not know that Ohio law imposes both criminal and civil penalties for hazing. The statutory scheme actually casts a wide net to encompass as much bad conduct and as many bad actors as possible.

On the criminal side, R.C. 2903.31(A) defines hazing as “doing any act or coercing another, including the victim, to do any act of initiation into any student or other organization that causes or creates a substantial risk of causing mental or physical harm to any person.” Under the plain language of the statute, “any” act, without limitation, can be considered hazing. Moreover, liability for those who may not directly act but who nonetheless cajole or threaten others to do an act will also attach under the broadly worded statute. Finally, the statute punishes not just acts that cause actual harm, but also conduct that merely creates the probability that harm would occur, even if it does not materialize.


Though usually only thought of in the context of Greek organizations in the university setting, hazing in Ohio includes any act done as part of initiation or inclusion in any student team, club, or organization.¹ By contrast, simple bullying by upperclassmen without attachment to initiation, for example, will not constitute hazing.²

The statute specifically allows criminal prosecution against the individual participants, and also any administrator, employee, or faculty member of the school who recklessly permits the hazing to occur.

In recognition of the egregious nature of hazing and the harms and losses it causes, R.C. 2307.44 sets the proof bar quite low.

Indeed, hazing is a strict liability offense. The mere fact that the act was done, regardless of the actor's mental state, subjects the hazing defendant to civil liability. The statute states that “[a]ny person who is subjected to hazing ... may commence a civil action for injury or damages, including mental and physical pain and suffering, that result from the hazing.” Mindful that the hazing defendant may attempt to blame the victim, the General Assembly chose to explicitly bar comparative negligence, assumption of risk, and consent as defenses to a civil hazing claim. This is a highly unusual move, especially given that we are a tort reform state.

Ohio Revised Code 2307.44 also casts the net of potentially liable parties wider than its criminal counterpart. In addition to the individual actors and the schools involved, the civil statute names both the local and national branches of the organization as parties who fall within its ambit.

Ohio's broad statutory language, low level proof requirements, and prohibitions on defenses evince a legislative intent to provide the widest possible penalties and maximum remedies to victims of hazing in Ohio. 

Endnotes

- ¹ See, e.g., *Vinicky v. Pristas*, 2005-Ohio-5196, 163 Ohio App.3d 508.
- ² See, e.g., *Duitch v. Canton City Schs.*, 2004-Ohio-2173, 157 Ohio App.3d 80.

Author bios



Mark Kitrick is the senior partner with Kitrick, Lewis & Harris Co., L.P.A. in Columbus. Over the last 33 years Mark has handled complex injury and death cases, aviation crashes and consumer class actions. He is past president of the Ohio Association for Justice and the Central Ohio Association for Justice, and he is Budget Chair for AAJ, formerly ATLA. Mark is a long-time member of the OSBA and serves on the OSBF Grant Committee.



Sean Harris is a partner with Kitrick, Lewis, & Harris, Co. LPA in Columbus, where he practices in the areas of wrongful death, product liability and personal injury. He grew up in Maumee, Ohio. He attended Ohio Wesleyan University and The Ohio State University College of Law. Sean currently serves as president of the Central Ohio Association for justice.

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