

Republic of the Philippines
Congress of the Philippines
Metro Manila
Eighteenth Congress
First Regular Session

5248
Introduced by:

Fidel F. Nograles
Second District
Province of Rizal

Explanatory Note

There has been a series of deaths due to hazing throughout the years. Since the 1950s, there have been at least 40 deaths caused by hazing in different universities, schools and institutions.

Lenny Villa was one of those who died because of hazing. He died February 10, 1991. His death was one of the first that drew national attention to hazing which eventually led to the passage of Republic Act (RA) No. 8049 or the Anti-Hazing Act of 1995. The law aimed to preventing hazing. But the deaths that followed the passage of time of the first Anti-Hazing Law, unfortunately and regrettably, did not stop. Convictions were scarce, and penalties imposed, if there are any, are mere slaps on the wrist.

Because of the death of a freshman law student, Horacio "Atio" Castillo III in September 2017, there was a renewed call to amend the Anti-Hazing Law of 1995. As a result, RA No. 11053 or the Anti-Hazing Act of 2018 was passed, which adopted stricter sanctions to anti-hazing violators and strengthened the old Anti-Hazing Law.

Despite the amendments, hazing has plagued us again with the needless death of Philippine Military Academy cadet Darwin Dormitorio, the hospitalization of Laguna State Polytechnic University student Jonathan Concordia, and the reported suicide committed by a University of the Philippines student after the illegal activity allegedly committed by his fraternity brother was exposed online.

Even after the enactment of the Anti-Hazing Law, violators remain undeterred and uninformed, choosing to continue their rituals of violence disguised as brotherhood.

Congress should pass more aggressive initiatives and deterrents to arrest this culture of violence.

In his famous novel *El Filibusterismo*, Dr. Jose Rizal eruditely proclaimed, "There can be no tyrants where there are no slaves." Our national hero further asked "Why independence, if the slaves of today will be the tyrants of tomorrow?"



The same analogy can be said in the case of hazing. There will be no hazing if there are no willing victims thereof, who, in their own time, will also perpetuate the same vicious cycle of violence to others.

It is submitted that there is a legal void in the existing Anti-Hazing Law because victims of hazing, although they have suffered physical and psychological injuries and torture, have no criminal liability even though they are present in the conduct of hazing. Specifically, Section 14 (c) of the Anti-Hazing Law provides that "The penalty of *reclusion temporal* in its maximum period and a fine of One Million Pesos (P1,000,000) shall be imposed upon all persons who are present in the conduct of hazing." Meanwhile, the same Section also describes the presence of any person in the conduct of hazing, even if such person is not a member of the fraternity, sorority, or organization, as *prima facie* evidence of participation as a principal. In the case of victims of hazing, they are not merely present in the conduct of hazing; instead, they are the very subjects of this barbaric practice which has no place in any civilized society. There can be no hazing to speak of, as long as there are no victims of hazing. Through their mere presence and cooperation in the execution of the criminal act by allowing themselves to be the physical target of paddling, whipping, beating, branding, and other brutal treatment, the victims of hazing are the accomplices to the crime of hazing. Therefore, this Bill seeks to establish criminal liability of recruits, neophytes, applicants, and members as accomplices to the crime of hazing.

Since some victims of hazing are powerless before their oppressors which results in vitiated consent to hazing, there must be two (2) elements for the recruit, neophyte, applicant, or member to be considered an accomplice to hazing. Firstly, the victim of hazing must intentionally and deliberately allow himself or herself to be the victim of hazing as defined by law. Secondly, the victim of hazing must knowingly cooperate in the actual execution of hazing which means that acts of hazing must be performed and the victim of hazing willfully allowed himself or herself to be the subject of such acts.

Moreover, because of the conspiracy of silence among perpetrators of hazing which impairs investigation efforts, the Bill specifically allows victims of hazing who are accused as accomplices to be discharged as a State Witness once he or she agrees to testify for the prosecution. This salient feature will aid the gathering of testimonial evidence needed to prosecute the case.

In view of the gap in the existing Anti-Hazing Law and the pressing need to formulate more aggressive measures to arrest the crime of hazing by punishing not only the perpetrators thereof, but also their willing victims, it is but appropriate to expressly and categorically establish a regime for the criminal liability of victims of hazing.


FIDEL F. NOGRALES

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House Bill No. ____

October 28, 2019

Introduced By:

Fidel F. Nograles, 2nd District, Rizal

"An Act Prohibiting Hazing and Regulating Other Forms of Initiation Rites of Fraternities, Sororities, and Other Organizations, Penalizing the Consenting Neophyte, Recruit, and Applicant, as defined herein, and Providing Penalties for Violations Thereof, Amending for the Purpose Republic Act No. 11053 "An Act Prohibiting Hazing and Regulating Other Forms of Initiation Rites of Fraternities, Sororities, and Other Organizations, and Providing Penalties for Violations Thereof, Amending for the Purpose Republic Act No. 8049,"

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

Section 1. A new section to be denominated as Section 1 is hereby inserted in Republic Act No. 11053, to read as follows:

"SECTION 1. *Short Title.* - This Act shall be known as the "Expanded Anti-Hazing Act of 2019."

Section 2. Section 2 of the same Act is hereby amended to read as follows:

"Section 2. *Definition of Terms.* - As used in this Act:

xxx

"(e) *Victim of hazing* shall refer to the recruit, neophyte, applicant, or member who has suffered physical or psychological harm or injury as part of an initiation rite or practice made as a prerequisite for admission or a requirement for continuing membership in a fraternity, sorority, or organization such as but not limited to the acts mentioned under par. (a) of this Section."

Section 3. Section 12 of the same Act is hereby amended to read as follows:

"Sec. 12-A. *Nullity of Waiver and Consent of Recruits, Neophytes, Applicants, and Members.* - Any form of approval, consent, or agreement, whether written or otherwise, or of an express waiver of the right to object to the initiation rite or

proceeding which consists of hazing, as defined in this Act, made by the recruit, neophyte, applicant, or member prior to an initiation rite that involves physical or psychological suffering, harm, or injury, shall be void and without any binding effect on the parties.

The defense that the recruit, neophyte, applicant, or member consented to being subjected to hazing shall not be available to persons prosecuted under this Act."

"Sec. 12-B. *Criminal Liability of Recruits, Neophytes, Applicants, and Members as Accomplices to Hazing.* - The recruits, neophytes, applicants, and members of fraternities, sororities, or organizations who intentionally and deliberately allow themselves to be victims of hazing and knowingly and willingly cooperate in the actual execution thereof shall be considered as accomplices to hazing."

"Sec. 12-C. *Recruits, Neophytes, Applicants, and Members as State Witness.* - The recruits, neophytes, applicants, and members of fraternities, sororities, or organizations who are accused as accomplices to hazing may be discharged as state witness under Republic Act No. 6981 or the Witness Protection, Security and Benefit Act and Revised Rules of Court if they agree to testify for the prosecution."

Section 4. Section 14 of the same Act is hereby amended to read as follows:

"Sec. 14. *Penalties.* - The following penalties shall be imposed:

xxx

"(g) The penalty of *reclusion temporal* shall be imposed on all recruits, neophytes, applicants, and members of fraternities, sororities, or organizations who are found guilty as accomplices to hazing."

Section 5. A new section to be denominated as Section 17 is hereby inserted in the same Act to read as follows:

"Section 17. *National Anti-Hazing Day.* The tenth (10th) day of February of every year is hereby declared as the "National Anti-Hazing Day," a special national working holiday in commemoration of the victims of hazing.

In observance of the National Anti-Hazing Day, high schools, colleges, and universities, including the Philippine Military Academy (PMA) and the Philippine National Police Academy (PNP), are mandated to observe the day by conducting special programs, fora, and other activities that inspire a culture of nonviolence, and inculcate a deep respect for human rights, the dignity of human life, and on the provisions of RA 11053, otherwise known as the Anti-Hazing Act of 2018 and this Act.

Pursuant to the observance of the National Anti-Hazing Day, the annual program of activities shall be prepared and implemented by the concerned high schools, colleges and universities including the PMA and the PNPA and shall be monitored by the

Commission on Higher Education, Department of Education, Armed Forces of the Philippines and Philippine National Police as the case may be."

Section 6. *Cyber-bullying.* Any acts of cyber-bullying, as defined under existing laws, of those involved in hazing shall be investigated by the persons-in-charge, president, and head of the school, institution or organization and shall impose the corresponding administrative penalties provided under this Act. The persons-in-charge, president, and head the school, institution or organization shall ensure that the rights of those accused of hazing are protected in any investigation.

Section 7. *Changes in Section Numbering.* All succeeding sections of the same Act are hereby renumbered accordingly.

Section 8. *Separability Clause.* - If any provision or part of this Act is declared invalid or unconstitutional, the other parts or provisions hereof shall remain valid and effective.

Section 9. *Repealing Clause.* - Republic Act No. 8049, Republic Act No. 11053 and all other laws, decrees, executive orders, proclamations, rules or regulations, or parts thereof which are inconsistent with or contrary to the provisions of this Act are hereby amended or modified accordingly.

Section 10. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in at least two (2) national newspaper of general circulation.

Approved,