

HB

189

<TARGET><BILL>HB 189</BILL><SUBJECT>HB
189</SUBJECT><COMM>HJUD28</COMM></TARGET>

ALASKA STATE LEGISLATURE

Representative Jonathan Kreiss-Tomkins

rep.jonathan.kreiss-tomkins@akleg.gov

Committees:
Transportation
Fisheries
State Affairs



Juneau, Alaska 99801-1182

Interim: (907) 747-4665
Session: (907) 465-3732
Fax: (907) 465-2652

Dear Rep. Keller,

I am requesting a hearing for HB 189: "An act relating to to hazing", at the convenience of the Chair of House Judiciary Committee. My staff member Austin White will be assisting our efforts in moving the bill along the legislative process. He can be reached at (907)-465-3732

We believe that our bill has been refined to address concerns of the education committee and other parties that have expressed concern over certain provisions of the bill.

One potential testifier, Dave Westol, an expert on hazing, has been identified at this point in time. This testimony would be provided from out of state, so I ask that remote testimony be allowed and prepared for. Further testifiers may be identified at a later date, at which point their identity and affiliation will be passed along to the chair.

Enclosed is the committee substitute along with the corresponding sectional analysis, explanation of versions, fiscal notes, supporting documentation, and our sponsor statement.

Thank you for your time and consideration,

A handwritten signature in black ink, appearing to read "JKT".

Representative Jonathan Kreiss-Tomkins

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More than one in ten victims of hazing express a desire for revenge, according to Professor Norm Pollard of Alfred University, who authored one of the first thorough studies of hazing in 1999. Hazing does not stop with the act itself, but engenders more hazing, abuse, and even suicide.

One in five American high school students admits to being directly involved in hazing their peers. Most stories go unreported. Those that surface are reminders of the harsh acts students can carry out on one another. The Juneau Empire reported in December 2008, for example, that Juneau high school athletes returned from a meet with “frostbitten hands and welts on backsides” that were the result of “being ordered to hold onto ice until the skin burned” and “being held down and paddled by a group of students.”

Professor Pollard says that public evidence of hazing usually points to an abundance of similar acts taking place in private. The same vicious cycles that underwrite bullying, harassment, and abuse also perpetuate hazing. Victims in turn haze others—or, worse, act destructively towards themselves. Alaska is one of only six states where hazing is not a crime.

HB 189 defines hazing and expands school district policies to include hazing. The bill prohibits reprisal against witnesses and grants immunity to those who report incidents of hazing in good faith, in order to bring to light the acts that do happen. These provisions already exist in law for harassment, intimidation, and bullying in schools. Our bill extends these sections to hazing. The bill also makes hazing a class A misdemeanor.

The majority of states have recognized that schools, educators, and communities are together responsible for protecting students from hazing. This bill is a strong step towards ensuring our students are safe.

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HB 189: Hazing

Explanation of Versions

Version A: Original draft

Version U: Deleted duplicate Section 7, which reduced bill to 10 sections

Version N: Added "or affiliation with" on page 1, line 6, and page 4, line 3. This expands the definition to include not only acts for initiation into a group, but related to membership in any way.

Version O: Section 1- Removed "risk of physical injury" changed to "substantial risk of serious physical injury" on page 1, line 6. This was done to better reflect the language for reckless endangerment.

Deleted class b felony provision on the bill.

Section 1(b) deleted reference to "normal and customary" and replaced it with "conduct that is reasonably expected to occur when participating in athletic physical education, military training, or similar programs". This will provide a caveat to the definition of hazing.

Section 7- Added language that failure to report "shall" result in appropriate disciplinary action.

Section 10- The burden of proof of hazing was changed from "intentional act" to "knowingly" to correspond to the proof required in section one of the bill.

Changed language from "normal and customary" to "an act or situation that is reasonably expected to occur" on page 4, line 4. This is a conforming change.

Version P: Education CS for HB 189

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HB 189: Hazing

Sectional Analysis

Sec 1. Adds to AS 11.61. Subsection (a) defines hazing for as a crime. Section includes related provisions:

- **Sub (b)** exempts athletic or military programs that conduct that is reasonably expected to occur when participating in athletic physical education, military training, or similar programs.
- **Sub (c)** prohibits consent of the victim as a defense against hazing.
- **Sub (d)** defines "organization" as one of a variety of groups whose members are primarily students.
- **Sub (e)** makes hazing a class A misdemeanor.

All further sections amend AS 14.33.200 - AS 14.33.250

Sec 2. Requires school districts to add hazing to current policy against harassment, intimidation, or bullying.

Sec 3. Adds hazing to section regarding the characteristics of and the process for developing school district policy.

Sec 4. Adds hazing to DOE model policy against harassment, intimidation, or bullying.

Sec 5. Amends reporting requirements to include hazing. Clarifies that schools are required to report any event sponsored or sanctioned by the school, which relates to the 2007 Supreme Court case *Morse v. Frederick* relating to school jurisdictional issues.

Sec 6. Extends protections from retaliation to victims and witnesses of hazing.

Sec 7. Extends reporting requirements to appropriate school officials to include acts of hazing.

Sec 8. Extends discipline against those accusing falsely and in bad faith, or providing false information, to include acts of hazing.

Sec 9. Extends immunity from suit for good faith whistleblowers to include acts of hazing.

Sec 10. Defines "hazing" and "organization" for the purpose of school policy. This definition of "hazing" broadens the criminal definition by including acts that subject students to risk of mental or emotional injury or damage of their property.

ALASKA STATE LEGISLATURE

Representative Jonathan Kreiss-Tomkins

House District 34

rep.jonathan.kreiss-tomkins@akleg.gov

Committees:
Transportation
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State Capitol, Room 426
Juneau, Alaska 99801-1182

(907) 465-3732
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HB 189: Hazing Relevant Definitions Currently in Statute

In AS 14.33.200 - 14.33.250,

(1) "district" has the meaning given in AS 14.17.990;

(2) "harassment, intimidation, or bullying" means an intentional written, oral, or physical act, when the act is undertaken with the intent of threatening, intimidating, harassing, or frightening the student, and

(A) physically harms the student or damages the student's property;

(B) has the effect of substantially interfering with the student's education;

(C) is so severe, persistent, or pervasive that it creates an intimidating or threatening educational environment; or

(D) has the effect of substantially disrupting the orderly operation of the school;

(3) "school official" means an employee of a school, including a teacher, administrator, or noncertificated support staff or paraprofessional.

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version: HB 189
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB189-DOA-PDA-03-28-14
Title: HAZING
Sponsor: KREISS-TOMKINS
Requester: House Education

Department: Department of Administration
Appropriation: Legal and Advocacy Services
Allocation: Public Defender Agency
OMB Component Number: 1631

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2015 Request	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
OPERATING EXPENDITURES	FY 2015	FY 2015					
Personal Services	***		***	***	***	***	***
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	***	0.0	***	***	***	***	***

Fund Source (Operating Only)

None							
Total	***	0.0	***	***	***	***	***

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2014) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2015) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version

Prepared By:	Quinlan Steiner, Public Defender	Phone:	(907)334-4414
Division:	Public Defender Agency	Date:	03/28/2014 10:00 AM
Approved By:	Curtis Thayer, Commissioner	Date:	03/28/14
Agency:	Department of Administration		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. HB189

Analysis

HB189 Creates a new crime of hazing, prohibiting conduct that subjects a student to the risk of physical injury for the purpose of initiation or membership in an organization connected to an educational institution.

The Public Defender Agency cannot reliably predict the number of new cases this may generate. The agency, therefore, submits an indeterminate fiscal note.

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version: HB 189
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB189-DOA-OPA-03-28-14
Title: HAZING
Sponsor: KREISS-TOMKINS
Requester: House Education

Department: Department of Administration
Appropriation: Legal and Advocacy Services
Allocation: Office of Public Advocacy
OMB Component Number: 43

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2015 Request	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
OPERATING EXPENDITURES	FY 2015	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2014) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2015) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version

Prepared By:	Rick Allen, Director	Phone:	(907)334-4414
Division:	Office of Public Advocacy	Date:	03/28/2014 05:00 PM
Approved By:	Curtis Thayer, Commissioner	Date:	03/28/14
Agency:	Department of Administration		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. HB 189

Analysis

HB189 Creates a new crime of hazing, prohibiting conduct that subjects a student to the risk of physical injury for the purpose of initiation or membership in an organization connected to an educational institution.

The Office of Public Advocacy anticipates no fiscal impact and therefore submits a zero fiscal note.

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version: HB 189
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB189-DOC-OC-01-21-14
Title: HAZING
Sponsor: KREISS-TOMKINS
Requester: House Education

Department: Department of Corrections
Appropriation: Administration and Support
Allocation: Office of the Commissioner
OMB Component Number: 694

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2015 Request	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
OPERATING EXPENDITURES	FY 2015	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2014) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2015) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? **No**
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Updated for 2nd session to accurately reflect FY2015 and out year costs.
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Prepared By: <u>April Wilkerson, Director</u>	Phone: <u>(907)465-4641</u>
Division: <u>Administrative Services - Department of Corrections</u>	Date: <u>10/04/2013 10:21 AM</u>
Approved By: <u>Leslie Houston, Deputy Commissioner</u>	Date: <u>10/04/13</u>
Agency: <u>Department of Corrections</u>	

FISCAL NOTE ANALYSIS

**STATE OF ALASKA
2014 LEGISLATIVE SESSION**

BILL NO. HB 189

Analysis

This legislation makes it a crime to engage in hazing. Hazing is defined as knowingly engaging in or creating a situation which subjects a student to the risk of physical injury for the purpose of initiation into or affiliation with an organization operating in connection with an elementary, junior high, secondary, or post-secondary school. Hazing is a class B felony.

Passage of this legislation is not expected to cause a substantial increase in convictions which would result in incarceration. Therefore, this legislation has no fiscal impact on the Department.

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version: HB 189
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB189-LAW-CRIM-03-28-14
Title: HAZING
Sponsor: KREISS-TOMKINS
Requester: (H) EDC

Department: Department of Law
Appropriation: Criminal Division
Allocation: Criminal Justice Litigation
OMB Component Number: 2202

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015 Appropriation Requested	Included in Governor's FY2015 Request	Out-Year Cost Estimates					
			FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	
OPERATING EXPENDITURES								
Personal Services	***		***	***	***	***	***	***
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	***	0.0	***	***	***	***	***	***

Fund Source (Operating Only)

None								
Total	***	0.0	***	***	***	***	***	***

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues

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Estimated SUPPLEMENTAL (FY2014) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2015) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Initial version, not applicable.

Prepared By: <u>Loretta Withington, Division Operations Manager</u>	Phone: <u>(907)465-5427</u>
Division: <u>Department of Law</u>	Date: <u>03/28/2014 12:00 AM</u>
Approved By: <u>Michael C. Geraghty, Attorney General</u>	Date: <u>03/28/14</u>
Agency: <u>Department of Law</u>	

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. HB 189

Analysis

The bill requires school districts to adopt policies that would prohibit hazing of students. It also allows the state to assist school districts in developing materials to prevent hazing.

The bill adopts a new crime that prohibits hazing – by prohibiting a person from acting or causing a situation that subjects the student to a risk of physical injury for the purpose of initiation or affiliation with an organization that operates in connection with a school. The penalty would be a class A misdemeanor if physical harm occurs to a student, or a class B felony if a student dies.

The fiscal impact on the Department of Law is indeterminate because the number of cases arising under the new law cannot be estimated.

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version: HB 189
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB189-EED-SSA-1-21-14
Title: HAZING
Sponsor: KREISS-TOMKINS
Requester: House Education Committee

Department: Department of Education and Early Development
Appropriation: Teaching and Learning Support
Allocation: Student and School Achievement
OMB Component Number: 2796

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2015 Request	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
OPERATING EXPENDITURES	FY 2015	FY 2015					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

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Estimated SUPPLEMENTAL (FY2014) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2015) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Updated for 2nd session and to accurately reflect out year costs.

Prepared By:	Susan McCauley, Director	Phone:	(907)465-2857
Division:	Division of Teaching & Learning Support	Date:	10/03/2013 10:32 AM
Approved By:	Mike Hanley	Date:	10/03/13
Agency:	Commissioner		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. HB189

Analysis

The proposed legislation adds hazing to current statutory language related to harassment, intimidation, and bullying. It requires districts to include the prohibition of hazing in policy language, provide provisions for the punishment of hazing including suspension and expulsion, and to report data regarding incidences of hazing that result in suspension or expulsion. Additionally, it permits the Department of Education & Early Development (DEED) to provide to school districts policy recommendations, training materials, and internet resources related to hazing.

DEED intends to address these responsibilities through current positions resulting in a zero fiscal note.