

THIRTEENTH CONGRESS OF THE REPUBLIC )  
OF THE PHILIPPINES )  
Third Regular Session )

SENATE  
S.B. No. 2034

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Introduced by Senator Miriam Defensor Santiago

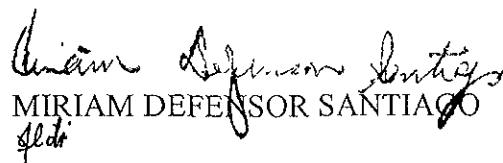
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EXPLANATORY NOTE

Republic Act No. 8049, also known as the "Anti-Hazing Law of 1995" is the law specifically crafted to combat the then rising incident of hazing. Section 4, third to the last sentence of said Act provides that the mere presence of any person during the hazing is *prima facie* evidence of participation therein as principal unless he prevented the commission of the acts punishable therein. The sentence was inserted to ensure that every person witness to a hazing should do his part to prevent it. Thus, failure to act on his part would make him a principal.

However, the sentence should be removed because it goes against the constitutional right to presumption of innocence. The mere presence of any person during the hazing should not make him a principal because there are instances where the person present is unable to prevent the commission of the acts punishable therein. For instance, a house help present during a hazing would automatically qualify as a principal unless he prevented the commission of the acts punishable in the Anti-Hazing Law. This, notwithstanding the reality that a house help, more often than not, has no voice in the household where he serves. Speaking up to prevent hazing would most likely cost him his job.

Therefore, in order to make the law conform to the Constitution and to reality, the said sentence should be deleted.

  
MIRIAM DEFENSOR SANTIAGO  
SdS

THIRTEENTH CONGRESS OF THE REPUBLIC )  
OF THE PHILIPPINES )  
Third Regular Session )

SENATE  
S.B. No. 10004

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Introduced by Senator Miriam Defensor Santiago

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AN ACT  
AMENDING REPUBLIC ACT NO. 8049, ALSO KNOWN AS  
THE ANTI-HAZING LAW OF 1995, SECTION 4 ON THE PENALTIES FOR THE  
VIOLATION OF THE ACT

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

SECTION 1. Section 4 of Republic Act No. 8049, also known as the Anti-Hazing Law of 1995 is hereby amended to read as follows:

Section 4. If the person subjected to hazing or other forms of initiation rites suffers any physical injury or dies as a result thereof, the officers and members of the fraternity, sorority or organization who actually participated in the infliction of physical harm shall be liable as principals. The person or persons who participated in the hazing shall suffer:

1. The penalty of *reclusion perpetua* (life imprisonment) if death, rape, sodomy or mutilation results there from.
2. The penalty of *reclusion temporal* in its maximum period (17 years, 4 months and 1 day to 20 years) if in consequence of the hazing the victim shall become insane, imbecile, impotent or blind.
3. The penalty of *reclusion temporal* in its medium period (14 years, 8 months and one day to 17 years and 4 months) if in consequence of the hazing the victim shall have lost the use of speech or the power to hear or to smell, or shall have lost an eye, a hand, a foot, an arm or a leg or shall have lost the use of any such member shall have become incapacitated for the activity or work in which he was habitually engaged.

4. The penalty of *reclusion temporal* in its minimum period (12 years and one day to 14 years and 8 months) if in consequence of the hazing the victim shall become deformed or shall have lost any other part of his body, or shall have lost the use thereof, or shall have been ill or incapacitated for the performance on the activity or work in which he was habitually engaged for a period of more than ninety (90) days.

5. The penalty of *prison mayor* in its maximum period (10 years and one day to 12 years) if in consequence of the hazing the victim shall have been ill or incapacitated for the performance on the activity or work in which he was habitually engaged for a period of more than thirty (30) days.

6. The penalty of *prison mayor* in its medium period (8 years and one day to 10 years) if in consequence of the hazing the victim shall have been ill or incapacitated for the performance on the activity or work in which he was habitually engaged for a period of ten (10) days or more, or that the injury sustained shall require medical assistance for the same period.

7. The penalty of *prison mayor* in its minimum period (6 years and one day to 8 years) if in consequence of the hazing the victim shall have been ill or incapacitated for the performance on the activity or work in which he was habitually engaged from one (1) to nine (9) days, or that the injury sustained shall require medical assistance for the same period.

8. The penalty of *prison correccional* in its maximum period (4 years, 2 months and one day to 6 years) if in consequence of the hazing the victim sustained physical injuries which do not prevent him from engaging in his habitual activity or work nor require medical attendance.

The responsible officials of the school or of the police, military or citizen's army training organization, may impose the appropriate administrative sanctions on the person or the persons

charged under this provision even before their conviction. The maximum penalty herein provided shall be imposed in any of the following instances:

- (a) when the recruitment is accompanied by force, violence, threat, intimidation or deceit on the person of the recruit who refuses to join;
- (b) when the recruit, neophyte or applicant initially consents to join but upon learning that hazing will be committed on his person, is prevented from quitting;
- (c) when the recruit, neophyte or applicant having undergone hazing is prevented from reporting the unlawful act to his parents or guardians, to the proper school authorities, or to the police authorities, through force, violence, threat or intimidation;
- (d) when the hazing is committed outside of the school or institution; or
- (e) when the victim is below twelve (12) years of age at the time of the hazing.

The owner of the place where hazing is conducted shall be liable as an accomplice, when he has actual knowledge of the hazing conducted therein but failed to take any action to prevent the same from occurring. If the hazing is held in the home of one of the officers or members of the fraternity, group, or organization, the parents shall be held liable as principals when they have actual knowledge of the hazing conducted therein but failed to take any action to prevent the same from occurring.

The school authorities including faculty members who consent to the hazing or who have actual knowledge thereof, but failed to take any action to prevent the same from occurring shall be punished as accomplices for the acts of hazing committed by the perpetrators.

The officers, former officers, or alumni of the organization, group, fraternity or sorority who actually planned the hazing although not present when the acts constituting the hazing were committed shall be liable as principals. A fraternity or sorority's adviser who is present when the acts constituting the hazing were committed and failed to take action to prevent the same from occurring shall be liable as principal.

[The presence of any person during the hazing is *prima facie* evidence of participation therein as principal unless he prevented the commission of the acts punishable herein.]

Any person charged under this provision shall not be entitled to the mitigating circumstance that there was no intention to commit so grave a wrong.

This section shall apply to the president, manager, director or other responsible officer of a corporation engaged in hazing as a requirement for employment in the manner provided herein.

SECTION 2. *Repealing Clause.* – Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent with the provisions of this Act is hereby repealed, modified or amended accordingly.

SECTION 3. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,