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ATTORNEY GENERAL OPINION NO. 86-106

The Honorable Ben Vidricksen  
State Senator, Twenty-Fourth District  
713 N. 11th Street  
Salina, Kansas 67401

Re: Crimes and Punishments--Kansas Criminal Code--Hazing

Synopsis: Hazing, as defined in 1986 Senate Bill No. 777, is prohibited in all social and fraternal organizations, including the Shrine and the Elks Lodge. Cited herein: K.S.A. 1985 Supp. 77-201; 1986 Senate Bill No. 777, L. 1986, Ch. 117, §1.

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Dear Senator Vidricksen:

As Senator for the Twenty-Fourth District, you request our opinion regarding the interpretation of 1986 Senate Bill No. 777, L. 1986, Ch. 117, §1, which makes "hazing" a class B misdemeanor. Specifically, you ask whether organizations such as the Shrine and the Elks Lodge are exempt from the scope of this bill.

L. 1986, Ch. 117, §1 provides that "no person shall recklessly participate in the hazing of another." "Hazing" is defined in the law as "willfully and wantonly coercing, demanding or encouraging another person to perform as a condition of membership in a social or fraternal organization, any act which could reasonably be expected to result in great bodily harm, disfigurement or death or which is done in a manner whereby great bodily harm, disfigurement or death could be inflicted." Id.

It is your opinion that the legislature intended L. 1986, Ch. 117, §1 to prohibit only the hazing that occurs in college fraternities and sororities. However, it is a fundamental rule of statutory construction that the purpose and the intent of the legislature governs when that intent can be ascertained from the statute. State v. Meredith, 236 Kan. 866 (1985). Otherwise, all statutes must be interpreted and applied according to the plain meaning of the language used. Reardon v. Krimm, 541 F.Supp. 187 (D. Kan. 1982). See also K.S.A. 1985 Supp. 77-201 (words and phrases shall be construed according to the context and the approved usage of the language.) Further, criminal statutes are to be strictly construed. State v. Roudybush, 235 Kan. 834 (1984). The "rule of strict construction," as applied to penal statutes, simply means that ordinary words are to be given their ordinary meaning and the statute should not be read to add that which is not readily found therein or to read out what, as a matter of ordinary English language, is contained therein. State v. Thompson, 237 Kan. 562 (1985).

The terms of L. 1986, Ch. 117, §1 are clear. Hazing is prohibited in social or fraternal organizations. A fraternal order is commonly defined as a voluntary association formed and organized for the promotion of fraternal, social, moral and economic objects. 36 Am.Jur. 2d Fraternal Orders, Etc. §§1 & 2 (1968). Its organization is commonly based on a lodge system, with a graduated series of central or governing bodies. Id. Clearly, the Shrine and the Elks Lodge are fraternal organizations and, as such, they fall within the scope of L. 1986, Ch. 117, §1.

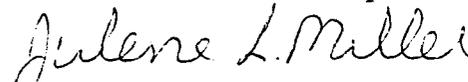
It cannot be said from the face of the statute that the legislature intended this bill to apply only to those fraternal and social organizations that are found on college campuses. It would have been a simple matter for the legislature to prohibit hazing specifically in college fraternities and sororities. In fact, prior to passing 1986 Senate Bill No. 777, the Senate presented 1986 Senate Bill No. 587 (vetoed by the Governor for reasons not pertinent here), which defined "hazing" to mean doing any act that creates a substantial risk of causing mental or physical harm to any person in connection with the activities of a student organization. By substituting the words "social or fraternal organizations" for "student organization," it may be assumed that the legislature intended to expand the scope of 1986 Senate Bill No. 587.

Therefore, it is our opinion that 1986 Senate Bill No. 777, L. 1986, Ch. 117, §1, prohibits hazing in all social and fraternal organizations and is not just limited to hazing in college fraternities and sororities.

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



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Deputy Attorney General

RTS:JLM:jm