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Utah House panel OKs bill to stiffen penalties for alcohol-fueled hazing

Alcohol » Legislature falls short of family's goals

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A pair of bills filed in response to the binge-drinking death of a Utah State University freshman moved forward Wednesday in the Utah House. But the family of Michael Starks, the fraternity pledge who died in the 2008 incident prosecuted as a hazing, feels the measures do not go far enough in protecting college students from booze-fueled initiation events.

HB138, which would elevate the crime of hazing when it involves the consumption of drugs or alcohol from a class B to a class A misdemeanor, punishable by up to a year in jail, cleared the House Judiciary Committee.

HB277, which seeks to protect under-age drinkers who call 911, generated less controversy and was passed unanimously Wednesday by the House.

Carol Spackman Moss, D-Salt Lake City, sponsor of HB138, told the committee her bill is "a chance for Utah to lead on this issue. Cases like [the Starks death] will end with more education, legal remedies and fear of serious consequences."

George Starks Sr., Michael's father, told lawmakers that fraternity pledges have been dying since 1885, when a blind-folded Cornell University student stumbled off a cliff. Hazing deaths today often involve reckless drinking, he said.

At least three other fraternity pledges died in the U.S. during the same fall Michael, an 18-year-old USU freshman from Salt Lake City, pledged the Sigma Nu fraternity. Near the end of rush, his would-be brothers selected him for a ritual involving the women next door. Teen-age members of the Chi Omega sorority "captured" Starks, taking him to an off-campus residence where they stripped him, painted his skin Aggie blue and furnished a bottle of vodka.

Starks drank most of the bottle, which some of the women held to his lips. He then succumbed to alcohol poisoning several hours later at the frat house.

Twelve participants were charged with hazing, but none were convicted of the offense. Cache County prosecutors dismissed charges against seven Greek members. Four others pleaded guilty to related offenses and a fifth entered a guilty "plea in abeyance" to hazing, dismissed after she completed probation.

Moss originally intended her bill to bar courts from accepting pleas in abeyance in hazing cases where a death was involved. But the Statewide Association of Prosecutors opposed the provision on the grounds it would limit the flexibility of prosecutors and judges, said the group's executive director, Paul Boyden.

Such pleas deals are useful tools, particularly in hazing cases where there are many participants with varying degrees of culpability, he said.

"When you take that away, you compromise the capacity of our system to do justice," added Rep. Kay McIff, R-Richfield, a retired Sixth District Judge. "It places the prosecutors in the position of charging a more serious offense or doing nothing."

McIff's amendment to HB138, which the committee passed on a 7-4 vote, stripped the plea in abeyance ban over Starks' objections, who dismissed McIff's and Boyden's concerns as a "red herring."

HB277, sponsored by Christine Johnson, D-Salt Lake City, offers the possibility of leniency for underage drinkers who "do the right thing" when a companion imbibes too much.

On the morning Michael Starks died, Sigma Nu members were concerned about the drunken freshman's condition but no one called for emergency responders until he was already dead hours later, Johnson told the Judiciary Committee last week.

The Starks family wanted full amnesty for participants in illegal drinking who call 911. But Johnson's bill merely requires the court to take the "good deed" into consideration as a mitigating factor when sentencing someone convicted of underage drinking, a class B misdemeanor.

The leniency would apply only if no other crimes were involved and the person calling for help did not exploit the afflicted person or coerce him or her to drink, Johnson stressed.

Unlike Moss' measure, HB277 enjoys the support of prosecutors and passed the House unanimously.

The law would tell young drinkers "they still have an obligation to perform a responsible act in the midst of irresponsible conduct," Scott Reed, of the Utah Attorney General's Office, told the committee.

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