

By the Committee on Crime & Punishment and Representative
Rojas

1 A bill to be entitled
2 An act relating to criminal mischief; amending
3 s. 806.13, F.S., relating to criminal mischief
4 offenses and penalties; providing for
5 reclassification of a misdemeanor violation of
6 said section involving less than \$1,000
7 property damage when the offender has one or
8 more prior convictions under said section;
9 providing legislative intent; providing that a
10 county or municipality is not preempted by
11 state law from establishing an ordinance which
12 prohibits the marking of graffiti or other
13 graffiti-related offense and penalizes such
14 offense with higher penalties than those
15 provided by state law or with mandatory
16 penalties; providing for the court to provide a
17 disposition of the case no less severe than
18 such higher or mandatory penalties in certain
19 juvenile proceedings for violation of the
20 ordinance; amending s. 901.15, F.S., relating
21 to circumstances for arrest without a warrant;
22 providing for such arrest when there is
23 probable cause to believe the person has
24 committed criminal mischief or a
25 graffiti-related offense; providing an
26 effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:
29
30
31

1 Section 1. Paragraph (b) of subsection (1) of section
2 806.13, Florida Statutes, is amended, and subsection (7) is
3 added to said section, to read:

4 806.13 Criminal mischief; penalties; penalty for
5 minor.--

6 (1)(a) A person commits the offense of criminal
7 mischief if he willfully and maliciously injures or damages by
8 any means any real or personal property belonging to another,
9 including, but not limited to, the placement of graffiti
10 thereon or other acts of vandalism thereto.

11 (b)1. If the damage to such property is \$200 or less,
12 it is a misdemeanor of the second degree, punishable as
13 provided in s. 775.082 or s. 775.083.

14 2. If the damage to such property is greater than \$200
15 but less than \$1,000, it is a misdemeanor of the first degree,
16 punishable as provided in s. 775.082 or s. 775.083.

17 3. If the damage is \$1,000 or greater, or if there is
18 interruption or impairment of a business operation or public
19 communication, transportation, supply of water, gas or power,
20 or other public service which costs \$1,000 or more in labor
21 and supplies to restore, it is a felony of the third degree,
22 punishable as provided in s. 775.082, s. 775.083, or s.
23 775.084.

24 4. If the person has one or more previous convictions
25 for violating this subsection, the offense under subparagraph
26 1. or subparagraph 2. for which the person is charged shall be
27 reclassified as a felony of the third degree, punishable as
28 provided in s. 775.082, s. 775.083, or s. 775.084.

29 (7) Because of the difficulty of confronting the
30 blight of graffiti, it is the intent of the Legislature that
31 cities and counties not be preempted by state law from

1 establishing ordinances prohibiting the marking of graffiti or
2 other graffiti-related offenses. Furthermore, as related to
3 graffiti, such cities and counties shall not be preempted by
4 state law from establishing higher penalties than those state
5 law provides and mandatory penalties when state law provides
6 discretionary penalties. Such higher and mandatory penalties
7 include fines, community service, restitution, and forfeiture.
8 Upon a finding that a juvenile has violated a graffiti-related
9 ordinance, no court acting under chapter 39 shall provide a
10 disposition of the case that is less severe than any mandatory
11 penalties prescribed by municipal or county ordinance for such
12 violation.

13 Section 2. Paragraph (d) is added to subsection (7) of
14 section 901.15, Florida Statutes, 1996 Supplement, to read:

15 901.15 When arrest by officer without warrant is
16 lawful.--A law enforcement officer may arrest a person without
17 a warrant when:

18 (7) There is probable cause to believe that the person
19 has committed:

20 (d) An act of criminal mischief or graffiti-related
21 offense as defined in s. 806.13.

22
23 With respect to an arrest for an act of domestic violence, the
24 decision to arrest shall not require consent of the victim or
25 consideration of the relationship of the parties. A law
26 enforcement officer who acts in good faith and exercises due
27 care in making an arrest under this subsection is immune from
28 civil liability that otherwise might result by reason of his
29 action.

30 Section 3. This act shall take effect October 1, 1997.

31