

By Senator Villalobos

37-525-01

1 A bill to be entitled
2 An act relating to criminal mischief; amending
3 s. 806.13, F.S.; requiring a person or minor
4 who commits criminal mischief to pay additional
5 fines and perform community service; providing
6 for the parent or legal guardian of a minor to
7 be liable for payment of a fine; authorizing
8 the court to decline to order payment of a fine
9 if the court finds that the person subject to
10 payment of the fine is indigent; deleting
11 provisions authorizing municipalities and
12 counties to establish penalties more severe
13 than the penalties provided by state law;
14 deleting a requirement that the court impose
15 the penalty prescribed by municipal or county
16 ordinance under certain circumstances;
17 providing an effective date.

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19 Be It Enacted by the Legislature of the State of Florida:
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21 Section 1. Section 806.13, Florida Statutes, is
22 amended to read:

23 806.13 Criminal mischief; penalties; penalty for
24 minor.--

25 (1)(a) A person commits the offense of criminal
26 mischief if he or she willfully and maliciously injures or
27 damages by any means any real or personal property belonging
28 to another, including, but not limited to, the placement of
29 graffiti thereon or other acts of vandalism thereto.

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

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

7 3. If the damage is \$1,000 or greater, or if there is
8 interruption or impairment of a business operation or public
9 communication, transportation, supply of water, gas or power,
10 or other public service which costs \$1,000 or more in labor
11 and supplies to restore, it is a felony of the third degree,
12 punishable as provided in s. 775.082, s. 775.083, or s.
13 775.084.

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

19 (2) Any person who willfully and maliciously defaces,
20 injures, or damages by any means any church, synagogue,
21 mosque, or other place of worship, or any religious article
22 contained therein, commits ~~is guilty of~~ a felony of the third
23 degree, punishable as provided in s. 775.082, s. 775.083, or
24 s. 775.084, if the damage to the property is greater than
25 \$200.

26 (3) Whoever, without the consent of the owner thereof,
27 willfully destroys or substantially damages any public
28 telephone, or telephone cables, wires, fixtures, antennas,
29 amplifiers, or any other apparatus, equipment, or appliances,
30 which destruction or damage renders a public telephone
31 inoperative or which opens the body of a public telephone,

1 commits ~~is guilty of~~ a felony of the third degree, punishable
2 as provided in s. 775.082, s. 775.083, or s. 775.084;
3 provided, however, that a conspicuous notice of the provisions
4 of this subsection and the penalties provided is posted on or
5 near the destroyed or damaged instrument and visible to the
6 public at the time of the commission of the offense.

7 (4)(a) The amounts of value of damage to property
8 owned by separate persons, if the property was damaged during
9 one scheme or course or conduct, may be aggregated in
10 determining the grade of the offense under this section.

11 (b) Any person who violates this section may, in
12 addition to any other criminal penalty, be required to pay for
13 the damages caused by such offense.

14 (5) In addition to any other penalty provided by law,
15 if a minor is found to have committed a delinquent act under
16 this section for placing graffiti on any public property or
17 private property, and:

18 (a) The minor is eligible by reason of age for a
19 driver's license or driving privilege, the court shall direct
20 the Department of Highway Safety and Motor Vehicles to revoke
21 or withhold issuance of the minor's driver's license or
22 driving privilege for not more than 1 year.

23 (b) The minor's driver's license or driving privilege
24 is under suspension or revocation for any reason, the court
25 shall direct the Department of Highway Safety and Motor
26 Vehicles to extend the period of suspension or revocation by
27 an additional period of not more than 1 year.

28 (c) The minor is ineligible by reason of age for a
29 driver's license or driving privilege, the court shall direct
30 the Department of Highway Safety and Motor Vehicles to
31 withhold issuance of the minor's driver's license or driving

1 privilege for not more than 1 year after the date on which he
2 or she would otherwise have become eligible.

3 (6) A minor whose driver's license or driving
4 privilege is revoked, suspended, or withheld under subsection
5 (5) may elect to reduce the period of revocation, suspension,
6 or withholding by performing community service at the rate of
7 1 day for each hour of community service performed. In
8 addition, if the court determines that due to a family
9 hardship, the minor's driver's license or driving privilege is
10 necessary for employment or medical purposes of the minor or a
11 member of the minor's family, the court shall order the minor
12 to perform community service and reduce the period of
13 revocation, suspension, or withholding at the rate of 1 day
14 for each hour of community service performed. As used in this
15 subsection, the term "community service" means cleaning
16 graffiti from public property.

17 (7)(a) Because of the difficulty of confronting the
18 blight of graffiti, in addition to any other penalty provided
19 by law, a person who violates this section, or a minor who
20 commits a delinquent act prohibited under this section, shall:

- 21 1. Pay a fine of \$250 for the first offense, \$500 for
22 a second offense, and \$1,000 for any subsequent offense; and
23 2. Perform at least 40 hours of community service and,
24 if possible, perform at least 100 hours of community service
25 that involves the removal of graffiti.

26 (b) If a minor commits a delinquent act prohibited
27 under this section, the parent or legal guardian of the minor
28 is liable along with the minor for payment of the fine. The
29 court may decline to order a minor or other person to pay a
30 fine under paragraph (a) if the court finds that the parent or
31 legal guardian of the minor, or the person, is indigent and

1 does not have the ability to pay the fine. ~~it is the intent of~~
2 ~~the Legislature that municipalities and counties not be~~
3 ~~preempted by state law from establishing ordinances that~~
4 ~~prohibit the marking of graffiti or other graffiti-related~~
5 ~~offenses. Furthermore, as related to graffiti, such~~
6 ~~municipalities and counties are not preempted by state law~~
7 ~~from establishing higher penalties than those provided by~~
8 ~~state law and mandatory penalties when state law provides~~
9 ~~discretionary penalties. Such higher and mandatory penalties~~
10 ~~include fines that do not exceed the amount specified in ss.~~
11 ~~125.69 and 162.21, community service, restitution, and~~
12 ~~forfeiture. Upon a finding that a juvenile has violated a~~
13 ~~graffiti-related ordinance, a court acting under chapter 985~~
14 ~~may not provide a disposition of the case which is less severe~~
15 ~~than any mandatory penalty prescribed by municipal or county~~
16 ~~ordinance for such violation.~~

17 Section 2. This act shall take effect July 1, 2001.

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19 SENATE SUMMARY

20
21 Requires that a person or minor who commits criminal
22 mischief to pay, in addition to any other penalty, \$250
23 for a first offense, \$500 for a second offense, and
24 \$1,000 for a third or subsequent offense. Requires the
25 person or minor to perform at least 40 hours of community
26 service and 100 hours of community service that involves
27 the removing of graffiti. Provides that the parent or
28 legal guardian of a minor is liable for payment of a
29 fine. Provides for the court to decline to impose a fine
30 if the court finds that the person subject to paying the
31 fine is indigent. Deletes provisions that authorize
municipalities and counties to establish penalties more
severe for graffiti-related offenses than the penalties
provided by state law. (See bill for details.)