

Amendment No. 01 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

11 The Committee on Crime Prevention, Corrections & Safety  
12 offered the following:

14 **Amendment (with title amendment)**

15 Remove everything after the enacting clause

17 and insert:

18 Section 1. Section 806.13, Florida Statutes, is  
19 amended to read:

20 806.13 Criminal mischief; penalties; penalty for  
21 minor.--

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

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

30 2. If the damage to such property is greater than \$200  
31 but less than \$1,000, it is a misdemeanor of the first degree,

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1 punishable as provided in s. 775.082 or s. 775.083.

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

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

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

21 (3) Whoever, without the consent of the owner thereof,  
22 willfully destroys or substantially damages any public  
23 telephone, or telephone cables, wires, fixtures, antennas,  
24 amplifiers, or any other apparatus, equipment, or appliances,  
25 which destruction or damage renders a public telephone  
26 inoperative or which opens the body of a public telephone,  
27 ~~commits is guilty of~~ a felony of the third degree, punishable  
28 as provided in s. 775.082, s. 775.083, or s. 775.084;  
29 provided, however, that a conspicuous notice of the provisions  
30 of this subsection and the penalties provided is posted on or  
31 near the destroyed or damaged instrument and visible to the

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1 public at the time of the commission of the offense.

2 (4) Any person who willfully and maliciously defaces,  
3 injures, or damages by any means a sexually violent predator  
4 detention or commitment facility, as defined in part V of  
5 chapter 394, or any property contained therein, commits is  
6 guilty of a felony of the third degree, punishable as provided  
7 in s. 775.082, s. 775.083, or s. 775.084, if the damage to  
8 property is greater than \$200.

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

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

16 (6)(a) Any person who violates this section where the  
17 violation related to the placement of graffiti shall, in  
18 addition to any other criminal penalty, be required to pay a  
19 fine of:

- 20 1. Not less than \$250 for a first conviction.  
21 2. Not less than \$500 for a second conviction.  
22 3. Not less than \$1,000 for a third or subsequent  
23 conviction.

24 (b) Any person convicted under this section where the  
25 offense related to the placement of graffiti shall in addition  
26 to any other criminal penalty be required to perform at least  
27 40 hours of community service and, if possible, perform at  
28 least 100 hours of community service that involves the removal  
29 of graffiti.

30 (c) If a minor commits a delinquent act prohibited  
31 under paragraph (a), the parent or legal guardian of the minor

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1 is liable along with the minor for payment of the fine. The  
2 court may decline to order a person to pay a fine under  
3 paragraph (a) if the court finds that the person is indigent  
4 and does not have the ability to pay the fine.

5 ~~(7)(6)~~ In addition to any other penalty provided by  
6 law, if a minor is found to have committed a delinquent act  
7 under this section for placing graffiti on any public property  
8 or private property, and:

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

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

19 (c) The minor is ineligible by reason of age for a  
20 driver's license or driving privilege, the court shall direct  
21 the Department of Highway Safety and Motor Vehicles to  
22 withhold issuance of the minor's driver's license or driving  
23 privilege for not more than 1 year after the date on which he  
24 or she would otherwise have become eligible.

25 ~~(8)(7)~~ A minor whose driver's license or driving  
26 privilege is revoked, suspended, or withheld under subsection  
27 ~~(7)(5)~~ may elect to reduce the period of revocation,  
28 suspension, or withholding by performing community service at  
29 the rate of 1 day for each hour of community service  
30 performed. In addition, if the court determines that due to a  
31 family hardship, the minor's driver's license or driving

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1 privilege is necessary for employment or medical purposes of  
2 the minor or a member of the minor's family, the court shall  
3 order the minor to perform community service and reduce the  
4 period of revocation, suspension, or withholding at the rate  
5 of 1 day for each hour of community service performed. As  
6 used in this subsection, the term "community service" means  
7 cleaning graffiti from public property.

8 (9)~~(8)~~ Because of the difficulty of confronting the  
9 blight of graffiti, it is the intent of the Legislature that  
10 municipalities and counties not be preempted by state law from  
11 establishing ordinances that prohibit the marking of graffiti  
12 or other graffiti-related offenses. Furthermore, as related  
13 to graffiti, such municipalities and counties are not  
14 preempted by state law from establishing higher penalties than  
15 those provided by state law and mandatory penalties when state  
16 law provides discretionary penalties. Such higher and  
17 mandatory penalties include fines that do not exceed the  
18 amount specified in ss. 125.69 and 162.21, community service,  
19 restitution, and forfeiture. Upon a finding that a juvenile  
20 has violated a graffiti-related ordinance, a court acting  
21 under chapter 985 may not provide a disposition of the case  
22 which is less severe than any mandatory penalty prescribed by  
23 municipal or county ordinance for such violation.

24 Section 2. This act shall take effect July 1, 2002.

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26  
27 ===== T I T L E A M E N D M E N T =====

28 And the title is amended as follows:

29 On page 1, line 2,  
30 remove: entire title

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1 and insert:  
2 An act relating to criminal mischief; amending  
3 s. 806.13, F.S.; requiring a person who commits  
4 a criminal mischief offense related to the  
5 placement of graffiti to pay a minimum fine and  
6 perform community service; providing for the  
7 parent or legal guardian of a minor to be  
8 liable for payment of a fine; authorizing the  
9 court to decline to order payment of a fine if  
10 the court finds that the person subject to  
11 payment of the fine is indigent; providing an  
12 effective date.

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