

By the Council for Healthy Communities and Representatives  
Diaz-Balart and Arza

1                                   A bill to be entitled  
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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14 Be It Enacted by the Legislature of the State of Florida:

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16           Section 1. Section 806.13, Florida Statutes, is  
17 amended to read:

18           806.13 Criminal mischief; penalties; penalty for  
19 minor.--

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

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

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

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

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

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

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

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

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

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

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

19                 1. Not less than \$250 for a first conviction.

20                 2. Not less than \$500 for a second conviction.

21                 3. Not less than \$1,000 for a third or subsequent  
22 conviction.

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

29           (c) If a minor commits a delinquent act prohibited  
30 under paragraph (a), the parent or legal guardian of the minor  
31 is liable along with the minor for payment of the fine. The

1 court may decline to order a person to pay a fine under  
2 paragraph (a) if the court finds that the person is indigent  
3 and does not have the ability to pay the fine.

4 (7)~~(6)~~ In addition to any other penalty provided by  
5 law, if a minor is found to have committed a delinquent act  
6 under this section for placing graffiti on any public property  
7 or private property, and:

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

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

18 (c) The minor is ineligible 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  
21 withhold issuance of the minor's driver's license or driving  
22 privilege for not more than 1 year after the date on which he  
23 or she would otherwise have become eligible.

24 (8)~~(7)~~ A minor whose driver's license or driving  
25 privilege is revoked, suspended, or withheld under subsection  
26 (7)~~(5)~~ may elect to reduce the period of revocation,  
27 suspension, or withholding by performing community service at  
28 the rate of 1 day for each hour of community service  
29 performed. In addition, if the court determines that due to a  
30 family hardship, the minor's driver's license or driving  
31 privilege is necessary for employment or medical purposes of

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

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

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