

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 unable to pay the fine
12 under certain circumstances; providing an
13 effective date.

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15 Be It Enacted by the Legislature of the State of Florida:

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

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

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

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

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

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 or if the court
4 finds that the person does not have the ability to pay the
5 fine whether or not the person is indigent.

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

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

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

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

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

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

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

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