

By Senator Villalobos

37-260-02

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; eliminating
11 provisions authorizing municipalities and
12 counties to establish penalties more severe
13 than the penalties provided by state law;
14 abolishing 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) Any person who willfully and maliciously defaces,
8 injures, or damages by any means a sexually violent predator
9 detention or commitment facility, as defined in part V of
10 chapter 394, or any property contained therein, commits ~~is~~
11 ~~guilty of~~ a felony of the third degree, punishable as provided
12 in s. 775.082, s. 775.083, or s. 775.084, if the damage to
13 property is greater than \$200.

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

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

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

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

30 (b) The minor's driver's license or driving privilege
31 is under suspension or revocation for any reason, the court

1 shall direct the Department of Highway Safety and Motor
2 Vehicles to extend the period of suspension or revocation by
3 an additional period of not more than 1 year.

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

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

24 (8)(a) Because of the difficulty of confronting the
25 blight of graffiti, in addition to any other penalty provided
26 by law, a person who violates this section, or a minor who
27 commits a delinquent act prohibited under this section, shall:

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

4 (b) If a minor commits a delinquent act prohibited
5 under this section, the parent or legal guardian of the minor
6 is liable along with the minor for payment of the fine. The
7 court may decline to order a minor or other person to pay a
8 fine under paragraph (a) if the court finds that the parent or
9 legal guardian of the minor, or the person, is indigent and
10 does not have the ability to pay the fine.~~it is the intent of~~
11 ~~the Legislature that municipalities and counties not be~~
12 ~~preempted by state law from establishing ordinances that~~
13 ~~prohibit the marking of graffiti or other graffiti-related~~
14 ~~offenses. Furthermore, as related to graffiti, such~~
15 ~~municipalities and counties are not preempted by state law~~
16 ~~from establishing higher penalties than those provided by~~
17 ~~state law and mandatory penalties when state law provides~~
18 ~~discretionary penalties. Such higher and mandatory penalties~~
19 ~~include fines that do not exceed the amount specified in ss.~~
20 ~~125.69 and 162.21, community service, restitution, and~~
21 ~~forfeiture. Upon a finding that a juvenile has violated a~~
22 ~~graffiti-related ordinance, a court acting under chapter 985~~
23 ~~may not provide a disposition of the case which is less severe~~
24 ~~than any mandatory penalty prescribed by municipal or county~~
25 ~~ordinance for such violation.~~

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

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SENATE SUMMARY

Requires a person or minor who commits criminal mischief to pay, in addition to any other penalty, \$250 for a first offense, \$500 for a second offense, and \$1,000 for a third or subsequent offense. Requires the person or minor to perform at least 40 hours of community service and 100 hours of community service that involves the removing of graffiti. Provides that the parent or legal guardian of a minor is liable for payment of a fine. Provides for the court to decline to impose a fine if the court finds that the person subject to paying the fine is indigent. Eliminates 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.)